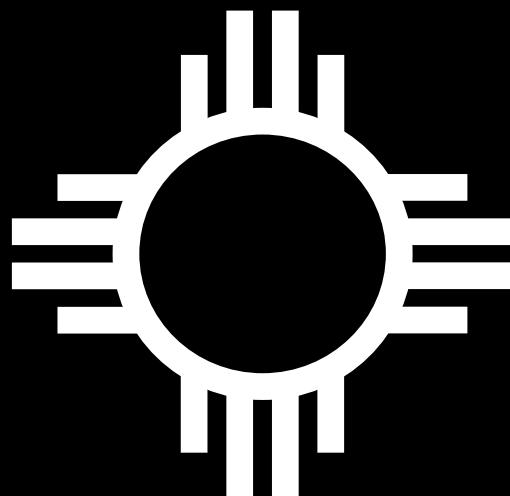


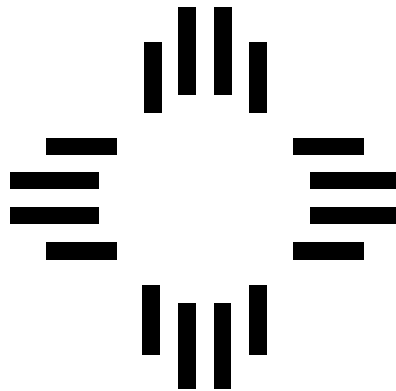
**NEW
MEXICO
REGISTER**



Volume XV
Issue Number 11
June 15, 2004

New Mexico Register

Volume XV, Issue Number 11
June 15, 2004



The official publication for all notices of rulemaking and filings of adopted, proposed and emergency rules in New Mexico

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Administrative Law Division
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2004

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New Mexico Register

Volume XV, Number 11

June 15, 2004

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Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. "No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico register as provided by the State Rules Act. Unless a later date is otherwise provided by law, the effective date of a rule shall be the date of publication in the New Mexico register." Section 14-4-5 NMSA 1978.

A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

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Notices of Rulemaking and Proposed Rules

NEW MEXICO BOARD OF DENTAL HEALTH CARE

Legal Notice

Notice is hereby given that the New Mexico Board of Dental Health Care will convene a Rule Hearing to amend:

Title 16, Chapter 5, Part 1
General Provisions
Title 16, Chapter 5, Part 5
Dentists Fees
Title 16, Chapter 5, Part 9
Non-Dentist Owners
Title 16, Chapter 5, Part 12 D e n t i s t ,
Retirement, and Reinstatement
Title 16, Chapter 5, Part 15 D e n t i s t s
Anesthesia Administration
Title 16, Chapter 5, Part 18 D e n t a l
Hygienists Fees
Title 16, Chapter 5, Part 20 D e n t a l
Hygienists, Licensure by Credentials
Title 16, Chapter 5, Part 33 D e n t a l
Assistants, Requirements for Certification

This Hearing will be held at the St. Joseph's Northeast Heights Hospital, 4801 Montgomery NE, Albuquerque, NM, July 23, 2004 at 8:30 a.m.

Following the Rule Hearing the Dental Hygienists Committee will convene a regular meeting. The New Mexico Board of Dental Health Care will convene a regular meeting following the Dental Hygienists Committee Meeting on July 23, 2004, beginning with Executive Session. The public portion of the meeting is anticipated to begin about 11:00 a.m. and end by 5:00 p.m.

Copies of the proposed rules are available on request from the Board office, P. O. Box 25101, Santa Fe, New Mexico, 87504-5101, or phone (505) 476-4680.

Anyone wishing to present their views on the proposed rules may appear in person at the Hearing, or may send written comments to the Board office. Written comments must be received by July 8, 2004 to allow time for distribution to the Board and Committee members. Individuals planning on testifying at the hearing must provide 14 copies of their testimony.

Final action on the proposed rules will be taken during the Board meeting. Portions of the committee and Board meeting may be closed to the public while the Board and Committee are in Executive Session to discuss licensing matters. Copies of the agen-

da will be available 24 hours in advance of the meeting from the Board office.

Disabled members of the public who wish to attend the meeting or hearing and are in need of reasonable accommodations for their disabilities should contact the Board Administrator at least one week prior to the meeting.

NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT

OPEN MEETING NOTICE

Chairwoman, Kathy Keith has announced that an Annual Retreat and Monthly Board Meeting for the Industrial Training Board will be held as scheduled:

**DATE: Thursday - June 10, 2004
(Annual Retreat)
Friday - June 11, 2004 (Board Meeting)**

**LOCATION: Santa Fe Business
Incubator
3900 Paseo del Sol
Santa Fe, NM 87507**

Phone number: (505) 424-1140

TIME: 9:00 a.m. - 12:00 noon

PURPOSE: To review the Job Training Incentive Program's fiscal update and the Board will revise its policies (Title 5, Chapter 5, Part 50).

The Board will address and possibly take action on any other issues related to the Job Training Incentive Program.

For additional information, including a meeting agenda, please contact Therese R. Varela at (505) 827-0323. If you are disabled and require assistance, auxiliary aids and services, (Voice & TDD), and/or alternate formats in order to further your participation, please contact Cynthia Jaramillo, ADA Coordinator at (505) 827-0248. These individuals are employees of New Mexico Economic Development Department, 1100 St. Francis Dr., Santa Fe, NM 87505-4147.

NEW MEXICO COMMISSION OF PUBLIC RECORDS

Notice of Public Hearing

The New Mexico Commission of Public Records will hold a public hearing at 9:00

a.m. on June 15, 2004 at the State Records Center and Archives building, Room 2012, 1209 Camino Carlos Rey, Santa Fe, New Mexico 87507. The public hearing will be held to solicit comments on the following proposed amendments to:

1.13.2 NMAC	Fees
1.13.5 NMAC	New Mexico Historical Records Grant Program
1.13.6 NMAC	New Mexico Historical Records Scholarship Program Guidelines
1.13.20 NMAC	Destruction of Public Records
1.13.40 NMAC	Accession of Public Records at the State Records Center and Archives
1.24.1 NMAC	General Provisions
1.24.10 NMAC	New Mexico Administrative Code

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the hearing, please contact Ruben Rivera at 476-7902 by June 11, 2004. Proposed rules can be viewed at <http://www.nmcpr.state.nm.us> and can also be provided in various accessible formats. For additional assistance please contact Ruben Rivera at 476-7902 or by e-mail at rrivera@rain.state.nm.us.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

THE NEW MEXICO DEPARTMENT OF TRANSPORTATION

NOTICE OF PUBLIC HEARING

The New Mexico Department of Transportation (NMDOT) will hold a public hearing for the purpose of receiving oral and written public comment on proposed amendments to **18 NMAC 27.2.1**. **18 NMAC 27.2** will also be renumbered and reformatted to **18.27.2 NMAC** to conform to the current NMAC requirements.

The hearing is scheduled July 15, 2004, from 1:00 p.m. to 3:00 p.m. at the New Mexico Department of Transportation, General Office, Training Room 1, located at 1120 Cerrillos Road, in Santa Fe, New Mexico. Please contact Vickie Sullivan @ 505-827-5222 to request a copy of the rule.

The hearing will be held before a hearing officer appointed by the Secretary

of the NMDOT. Interested persons may also present their views by written statements submitted on or before July, 2004 to Lee Onstott, NMDOT, P.O. Box 1149, Santa Fe, New Mexico 87504-1149, (505) 827-5631.

Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearings, or who needs copies of the proposed rule in an accessible form may contact (505) 827-1774 at least ten days before the hearing.

**End of Notices and
Proposed Rules Section**

Adopted Rules

NEW MEXICO PUBLIC ACCOUNTANCY BOARD

This is an amendment to 16.60.2.9 NMAC, effective 06-15-2004.

16.60.2.9 E D U C A T I O N REQUIREMENTS:

A. Section 61-28B7 of the Act requires a baccalaureate degree or its equivalent conferred by a college or university acceptable to the board, with 30 semester hours in accounting or auditing related subjects or their equivalent as determined by the board. After July 1, 2004, Section 61-28B8 of the Act requires an applicant to have completed at least ~~one hundred fifty~~ 150 semester hours of college education, including a baccalaureate or higher degree or its equivalent conferred by a college or university acceptable to the board, the total educational program to include accounting or auditing related subjects or their equivalent, as determined by the board, of not fewer than 30 semester hours.

(1) An examination applicant who has completed a baccalaureate degree and 30 semester hours of credit in accounting and has applied to take the examination prior to July 1, 2004, and had been found eligible will not be required to attain 150 semester hours of credit unless all four parts of the computer-based examination are not passed within an 18-month period.

(2) Any course for which credit has been awarded by the university will be accepted toward meeting the 150-semester-hour requirement.

B. The board will accept not fewer than 30 semester hours of accounting or audit related courses (3 semester hours may be in business law), without repeat, from a board-recognized educational institution. The recognized educational institution must have accepted them for the purposes of obtaining a baccalaureate degree or equivalent, and they must be shown on an official transcript. At least 15 of these hours must result from physical attendance at classes meeting regularly on the campus of a transcript-issuing institution.

C. A prospective CPA examination or CPA certificate candidate is considered as graduating from an accredited college or university acceptable to the board if, at the time the educational institution grants the applicant's degree, it is accredited at the appropriate level as outlined in these rules. As used in these rules, "accreditation" refers to the process of quality control of the education process. There are 3 different levels of accreditation referred to

in these rules, and the degree to which the board relies on accreditation differs according to the level at which the degree granting institution is accredited. In reviewing and evaluating a candidate's educational credentials, the board may rely on accreditation by an accrediting agency at 3 different levels.

D. Level 1 accreditation is associated with the four-year, degree-granting college or university itself. The institution must be accredited by 1 or more of the following board-recognized regional accrediting agencies (or successor agencies):

(1) middle states association of colleges and secondary schools;

(2) New England association of schools and colleges;

(3) north central association of colleges and secondary schools;

(4) northwest association of schools and colleges;

(5) southern association of colleges and schools;

(6) western states association of schools and colleges; and

(7) accrediting council for independent colleges and schools.

E. Level 2 accreditation is associated with a business school or college of business. The unit must be accredited by a national accreditation agency recognized by the board, such as the American assembly of collegiate schools of business (AACSB), following a specific and comprehensive review of its faculty, resources, and curricula. In evaluating a candidate's credentials, the board may choose to rely on this accreditation as evidence that the institution's business school has met minimum overall standards of quality for such schools.

F. Level 3 accreditation is associated with an accounting program or department. The program or department must be accredited by a national accreditation agency recognized by the board such as the AACSB. Accounting programs or departments accredited in this manner have met standards substantially higher and much more specific than those required for level 1 or level 2 accreditation. For level 3 accreditation, the accounting program or department must meet a stringent set of standards that addresses faculty credentials, student quality, physical facilities, and curricula. Graduates who submit transcripts from accredited accounting programs may be deemed to have met the board's specific accounting and business course requirements.

G. If an educational institution was not accredited at the time an

applicant's degree was received but is so accredited at the time the application is filed with the board, the institution will be deemed to be accredited for the purposes of this rule provided that it:

(1) certifies that the applicant's total educational program would qualify the applicant for graduation with a baccalaureate degree during the time the institution has been accredited; and

(2) furnishes the board satisfactory proof, including college catalogue course numbers and descriptions, that the pre-accrediting courses used to qualify the applicant as an accounting major are substantially equivalent to post-accrediting courses.

H. If an applicant's degree was received at an accredited educational institution as defined in this rule, but the educational program which was used to qualify the applicant as an accounting major included courses taken at non-accredited institutions, either before or after graduation, such courses will be deemed to have been taken at the accredited institution from which applicant's degree was received, provided the accredited institution either:

(1) has accepted such courses by including them in its official transcript; or

(2) certifies to the board that it will accept such courses for credit toward graduation.

I. A graduate of a four-year, degree-granting institution not accredited at the time the applicant's degree was received or at the time the application was filed will be deemed to be a graduate of a four-year accredited educational institution if:

(1) a credentials evaluation service approved by the board certifies that the applicant's degree is equivalent to a degree from an accredited educational institution defined in this rule; or if

(2) an accredited educational institution as defined in this rule accepts the applicant's non-accredited baccalaureate degree for admission to a graduate business degree program; the applicant satisfactorily completes at least 15 semester hours or the equivalent in post-baccalaureate education at the accredited educational institution, of which at least 9 semester hours, or the equivalent, shall be in accounting; and the accredited educational institution certifies that the applicant is in good standing for continuation in the graduate program or has maintained a grade point average in these courses that is necessary for graduation.

J. Advanced subjects completed to qualify under the above section may not be used to satisfy education requirements.

K. The board may provide a mechanism to recognize educational institutions that are not accredited at the institutional, business school, accounting program, or department level.

L. The accounting education concentration or equivalent contemplated by the Act shall consist of semester hours of credit earned as in a conventional college semester. Quarter hours will be converted by multiplying the quarter hours earned by two-thirds to determine semester hours earned. No more than [6] 30 semester hours will be recognized for internships or life experience.

[16.60.2.9 NMAC - Rp 16 NMAC 60.3.8, 02-14-2002; A, 06-15-2004]

NEW MEXICO PUBLIC ACCOUNTANCY BOARD

This is an amendment to 16.60.3.9 NMAC, 16.60.3.10 NMAC, 16.60.3.13 NMAC, and 16.60.3.15 NMAC effective 06-15-04.

16.60.3.9 INITIAL CERTIFICATE/LICENSE REQUIREMENTS:

A. An applicant for initial certification/licensure shall demonstrate to the board's satisfaction that he:

(1) is of good moral character and lacks a history of dishonest or felonious acts;

(2) meets the education, experience and examination requirements of the board; and

(3) provides evidence of successful completion of an ethics examination prescribed by the board.

B. Moral character requirements: The board may assess moral character requirements based upon applicant-provided character references and background checks to determine an applicant's history of dishonest or felonious acts.

C. Education and examination requirements: Education and examination requirements are specified in the act, Section 61-28B7 and Section 61-28B8 (After July 1, 2004) and are further delineated in Part 2 of board rules.

D. Experience required: Applicants documenting their required experience for issuance of an initial certificate pursuant to Section 7H of the act, and after July 1, 2004 Section 8H of the act shall.

(1) Provide documentation of experience in providing any type of services or advice using accounting, attest, management advisory, financial advisory, tax or consulting skills. Acceptable experience shall include experience gained through employment in industry, government, academia or public practice.

(2) Have their experience verified and demonstrate that all experience was obtained under the direct supervision of an active, licensed CPA as defined in the act or under the direct supervision of an active, licensed CPA from another state. The board shall consider and evaluate factors such as complexity and diversity of the work in determining acceptability of experience submitted.

(a) One year of experience shall consist of full or part-time employment that extends over a period of no less than 1 year and no more than 3 years and includes no fewer than 2,000 hours of performance of services described above.

(b) Experience documented in support of an initial application must be obtained within the 7 years immediately preceding passing of the examination or within 7 years of having passed the examination upon which the application is based.

This does not apply to applicants who qualified and sat for the examination during or prior to the November 2001 administration.

(c) Any licensee requested by an applicant to submit evidence of the applicant's experience and who has refused to do so shall, upon request of the board, explain in writing or in person the basis for such refusal. The board may require any licensee who has furnished evidence of an applicant's experience to substantiate the information.

(d) The board may inspect documentation relating to an applicant's claimed experience. Any applicant may be required to appear before the board or its representative to supplement or verify evidence of experience.

E. Replacement wall certificates and licenses to practice: Replacement wall certificates and licenses to practice may be issued by the board in appropriate cases and upon payment by the CPA or RPA of the fee as set by the board. A certificate/license holder is specifically prohibited from possessing more than one wall certificate and more than one license to practice as a CPA or RPA. When a replacement wall certificate or license to practice is requested, the certificate/license holder must return the original certificate/license or submit a notarized affidavit describing the occurrence that necessitated the replacement certificate or license.

F. Renewal requirements: Certificates/licenses for individuals will have staggered expiration dates based on the individual's birth month. Deadline for receipt of certificate/license renewal applications and supporting continuing professional education affidavits or reports is no later than the last day of the month prior to the CPA or RPA certificate/license holder's birth month or the next business day if the

deadline date falls on a weekend or holiday.

(1) The board may accept a sworn affidavit as evidence of certificate/license holder compliance with CPE requirements in support of renewal applications.

(2) Renewal applications and CPE reports received after prescribed deadlines shall include prescribed delinquency fees.

(3) Applications will not be considered complete without satisfactory evidence to the board that the applicant has complied with the continuing professional education requirements of Sections 9E and 12A of the act and of these rules.

(4) The board shall mail renewal application notices no less than 30 days prior to the renewal deadline.

[16.60.3.9 NMAC - Rp 16 NMAC 60.4.8.2 & 16 NMAC 60.4.8.3, 02-14-2002; A, 01-15-2004; A, 06-15-2004]

16.60.3.10 BOARD ACCEPTANCE OF GRADE TRANSFER CERTIFICATE APPLICANTS:

A. The board will only accept grade transfers from applicants passing the uniform CPA examination in other jurisdictions/states for an initial CPA certificate application under the following situations:

(1) temporary change in residence to the state/jurisdiction where the applicant passed the uniform CPA examination while the grade transfer applicant was a student;

(2) temporary change in residence to the state/jurisdiction where the applicant passed the uniform CPA examination while the grade transfer applicant was on military duty;

(3) temporary change in residence to the state/jurisdiction where the applicant passed the uniform CPA examination while the candidate was on a temporary work assignment;

(4) presentation of documented evidence demonstrating current resident status in the state of New Mexico; or

(5) presentation of documented evidence demonstrating anticipated employment and residency in the state of New Mexico within 6 months of the application's date.

B. An applicant who resides in New Mexico and was issued a certificate in another state based upon passage of the examination but never received a license to practice will be considered for licensure by grade transfer.

[B] C. The board may waive the above requirements due to hardship exceptions presented by a grade transfer certificate applicant.

[16.60.3.10 NMAC - N, 02-14-2002; A, 06-15-2004]

16.60.3.13 RECIPRO CITY REQUIREMENTS:

A. Interstate Reciprocity: The board may issue a certificate/license to the holder of a certificate issued by a state other than New Mexico as defined under Sections 3Q, 11B and D, and 26A of the act provided that the license from the other state is valid and in good standing and that the applicant:

(1) provides proof from a board-approved national qualifications service that their CPA qualifications are substantially equivalent to the CPA requirements of the act; or

(2) successfully completed the CPA examination in accordance with the rules of the other state at the time it granted the applicant's initial certificate; and

(3) has satisfied the education requirements set out in Sections 7C and 8C of the act; and

(4) meets the experience requirements under the act and these rules for issuance of the initial certificate; and

(5) has met the CPE requirement of the state in which he is currently licensed pursuant to the Act and board rules; and

(6) has met the ethics examination requirements of the board.

B. An applicant who holds a certificate from another state based upon passage of the examination but who does not hold a license to practice shall not be eligible for licensure by reciprocity.

[B] C. The board may rely on the national association of state boards of accountancy (NASBA), the American institute of certified public accountants (AICPA), or other professional bodies deemed acceptable to the board for evaluation of other state's CPA qualification requirements in making substantial equivalency determinations.

[C] D. International reciprocity: The board may designate a professional accounting credential issued in a foreign country as substantially equivalent to a New Mexico CPA certificate and may issue a certificate/license to the holder of a professional accounting credential issued in a foreign country.

(1) The board may rely on NASBA, AICPA, or other professional bodies deemed acceptable to the board for evaluation of foreign credentials in making equivalency determinations.

(2) The board may satisfy itself through qualifying examination(s) that the holder of a foreign country credential deemed by the board to be substantially equivalent to a CPA certificate possesses adequate knowledge of U.S. practice standards and the board's rules. The board will specify the qualifying examination(s) and may rely on NASBA, AICPA, or other pro-

fessional bodies to develop, administer, and grade such qualifying examination(s).

(3) The board recognizes the existence of the international qualifications appraisal board (IQAB), a joint body of NASBA and AICPA, which is charged with:

(a) evaluating the professional credentialing process of certified public accountants, or their equivalents, from countries other than the United States; and

(b) negotiating principles of reciprocity agreements with the appropriate professional and governmental bodies of other countries seeking recognition as having requirements substantially equivalent to the requirements for the certificate of a certified public accountant in the United States.

(4) The board shall honor the terms of all principles of reciprocity agreements issued by IQAB.

(5) The board recognizes the international uniform CPA qualification examination (IQEX), written and graded by AICPA, as a measure of professional competency satisfactory to obtain a New Mexico certificate by reciprocity.

(6) The board may accept a foreign country accounting credential in partial satisfaction of its certificate/license requirements if:

(a) the holder of the foreign country accounting credential meets the issuing body's education requirement and has passed the issuing body's examination used to qualify its own domestic candidates; and

(b) the foreign country credential is valid and in good standing at the time of application for a certificate/license.

(7) The board shall accept the following foreign credentials in partial satisfaction of its certificate/license requirements:

(a) Canadian chartered accountant;

(b) Australian chartered accountant;

(c) Australian certified practising accountant;

(d) Mexican contador publicos certificado.

[D] E. An applicant for renewal of a CPA certificate/license originally issued in reliance on a foreign country accounting credential shall:

(1) meet all board prescribed certificate/license renewal requirements; and

(2) present documentation from the foreign country accounting credential issuing body that the applicant's foreign country credential has not been suspended or revoked and is not the subject of a current investigation; and

(3) report any investigations undertaken or sanctions imposed by a foreign country credential body against the

CPA's foreign country credential.

[E] E. If the foreign country credential has lapsed, expired, or been cancelled, the applicant must present proof from the foreign country credentialing body that the certificate holder/licensee was not the subject of any disciplinary proceedings or investigations at the time the foreign country credential lapsed.

[F] G. Suspension or revocation of, or refusal to renew, the CPA's foreign accounting credential by the foreign credentialing body shall be considered evidence of conduct reflecting adversely upon the CPA's fitness to retain the certificate and may be a basis for board action.

[G] H. Conviction of a felony or any crime involving dishonesty or fraud under the laws of a foreign country is evidence of conduct reflecting adversely on the CPA's fitness to retain a certificate/license and is a basis for board action.

[H] I. The board shall notify the appropriate foreign country credentialing authorities of any sanctions imposed against a CPA. The board may participate in joint investigations with foreign country credentialing bodies and may rely on evidence supplied by such bodies in disciplinary hearings.

[16.60.3.13 NMAC - Rp 16 NMAC 60.4.9, 02-14-2002; A, 09-16-2002; A, 01-15-2004; A, 06-15-2004]

16.60.3.15 CONTINUING PROFESSIONAL EDUCATION (CPE) REQUIRED TO OBTAIN OR MAINTAIN AN "ACTIVE" CPA LICENSE:

A. The following requirements of continuing professional education apply to certificate/license ~~[renewals, reinstatements, reciprocity, and substantial equivalency applications]~~ renewals and reinstatements pursuant to Sections 9E and 12A of the Act. An applicant for certificate/license renewal shall show completion of no less than 120 clock hours of CPE, complying with these rules during the ~~[3 calendar year]~~ 36-month period preceding the first day of the certificate/license holder's birth month.

(1) Any applicant seeking a license/certificate or renewal of an existing license shall demonstrate participation in a program of learning meeting the standards set forth in the statement on standards for continuing professional education (CPE) programs jointly approved by NASBA and AICPA or standards deemed comparable by the board.

(2) Each person holding an active CPA certificate/license issued by the board shall show completion of no less than 120 hours of continuing professional education complying with these rules during the 3 calendar years preceding the first day of the

certificate/license holder's CPA birth month, with a minimum of 20 hours completed in each year. Licensees shall report CPE completion on board prescribed forms including a signed statement indicating they have met the requirements for participation in the CPE program set forth in board rules.

(3) The board may, at its discretion, accept a sworn affidavit as evidence of certificate/license holder compliance with CPE requirements in support of renewal applications in lieu of documented evidence of such. Reciprocity and reinstatement applications shall require documented evidence of compliance with CPE provisions.

(4) Deadline for receipt of license renewal applications and supporting CPE reports or affidavits is no later than the last day of the month prior to the certificate/license holder's birth month. Renewal applications and supporting CPE affidavits or reports shall be postmarked or hand-delivered no later than the renewal deadline date or the next business day if the deadline date falls on a weekend or holiday.

(5) Renewal applications and CPE reports received after prescribed deadlines shall include prescribed delinquency fees.

(6) Applications will not be considered complete without satisfactory evidence to the board that the applicant has complied with the CPE requirements of Sections 9E and 12A of the Act and of these rules.

(7) Reinstatement applicants whose certificates/licenses have lapsed ~~and applicants by reciprocity~~ shall provide documented evidence of completion of 120 hours of CPE ~~[according to this rule] in the preceding 36 months~~ before their application will be considered complete.

B. Exemption from CPE requirements through change of certificate/license status between inactive/retired and active status:

(1) Pursuant to Section 9E of the Act, the board may grant an exception to CPE requirements for certificate holders who do not provide services to the public. Persons desiring exemption from CPE rules requirements may request to change from "active" to "inactive" or "retired" certificate/license status, provided that they:

(a) complete board-prescribed change-of-status forms and remit related fees;

(b) not practice public accountancy as defined in Section 3M of the Act; and

(c) place the word "inactive" or "retired" adjacent to their CPA or RPA title on a business card, letterhead or other documents or devices, except for a board-issued certificate.

(2) Persons requesting to change from "inactive" or "retired" to "active" cer-

tificate/license status shall:

(a) provide documented evidence of compliance with all CPE requirements of this rule prior to request for certificate/license change of status to "active"; and

(b) complete board-prescribed change-of-status forms and remit related fees.

C. Hardship exceptions: The board may make exceptions to CPE requirements for reason of individual hardship including health, military service, foreign country residence, or other good cause. Requests for such exceptions shall be subject to board approval and presented in writing to the board. Requests shall include such supporting information and documentation as the board deems necessary to substantiate and evaluate the basis of the exception request.

~~[(1) A non-resident licensee seeking renewal of a certificate in this state shall be determined to have met the CPE requirement of this rule by meeting the CPE requirements for renewal of a certificate in the state in which the licensee's principal office is located.~~

~~[(2) Non-resident applicants for renewal shall demonstrate compliance with the CPE renewal requirements of the state in which the licensee's principal office is located by signing a statement to that effect on the renewal application of this state. However, if a state in which the non-resident licensee's principal office is located has no CPE requirements for renewal of a certificate, the non-resident licensee must comply with all CPE requirements for renewal of a certificate of the State of New Mexico, according to this rule.]~~

D. Programs qualifying for CPE credit: A program qualifies as acceptable CPE for purposes of Sections 9E and 12A of the Act and these rules if it is a learning program contributing to growth in professional knowledge and competence of a licensee. The program must meet the minimum standards of quality of development, presentation, measurement, and reporting of credits set forth in the Statement on Standards for Continuing Professional Education Programs jointly approved by NASBA and AICPA, by accounting societies recognized by the board, or such other standards deemed acceptable to the board.

(1) The following standards will be used to measure the hours of credit to be given for acceptable CPE programs completed by individual applicants:

(a) an hour is considered to be a 50-minute period of instruction;

(b) a full 1-day program will be considered to equal 8 hours;

(c) only class hours or the equivalent (and not student hours devoted to

preparation) will be counted.

(2) Service as a lecturer, discussion leader, or speaker at continuing education programs or as a university professor/instructor (graduate or undergraduate levels) will be counted to the extent that it contributes to the applicant's professional competence.

(3) Credit as a lecturer, discussion leader, speaker, or university professor/instructor may be allowed for any meeting or session provided that the session would meet the continuing education requirements of those attending.

(4) Credit allowed as a lecturer, discussion leader, speaker or university professor/instructor will be on the basis of 2 hours for subject preparation for each hour of teaching and 1 hour for each hour of presentation. Credit for subject preparation may only be claimed once for the same presentation.

(5) Credit may be allowed for published articles and books provided they contribute to the professional competence of the applicant. The board will determine the amount of credit awarded.

(6) Credit allowed under provisions for a lecturer, discussion leader, speaker at continuing education programs, or university professor/instructor or credit for published articles and books may not exceed one half of an individual's CPE requirement for a 3-year reporting period (shall not exceed 60 hours of CPE credit during a 3-year reporting period).

(7) For a continuing education program to qualify under this rule, the following standards must be met:

(a) an outline of the program is prepared in advance and preserved;

(b) the program is at least 1 hour in length;

(c) a qualified instructor conducts the program; and

(d) a record of registration or attendance is maintained.

(8) The following programs are deemed to qualify, provided the above are met:

(a) professional development programs of recognized national and state accounting organizations;

(b) technical sessions at meetings of recognized national and state accounting organizations and their chapters; and

(c) no more than 4 hours CPE annually may be earned for board meeting attendance.

(9) University or college graduate-level courses taken for academic credit are accepted. Excluded are those courses used to qualify for taking the CPA exam. Each semester hour of credit shall equal 15 hours toward the requirement. A quarter hour credit shall equal 10 hours.

(10) Non-credit short courses - each class hour shall equal 1 hour toward the requirement and may include the following:

(a) formal, organized in-firm educational programs;

(b) programs of other accounting, industrial, and professional organizations recognized by the board in subject areas acceptable to the board;

(c) formal correspondence or other individual study programs which require registration and provide evidence of satisfactory completion will qualify with the amount of credit to be determined by the board.

(11) The board will allow up to a total of 24 hours of CPE credits for firm peer review program participation. Hours may be earned and allocated in the calendar year of the acceptance letter for the firm's CPAs participating in the peer review.

(a) firms having an engagement or report peer review will be allowed up to 12 hours of CPE credits.

(b) firms having a system peer review will be allowed up to 24 hours of CPE credits.

(c) firms having a system peer review at a location other than the firm's office shall be considered an off-site peer review and will be allowed up to 12 hours of CPE credits.

(d) the firm will report to the board the peer review CPE credit allocation listing individual firm CPAs and the number of credits allotted to each CPA. Individual CPAs receiving credit based upon a firm's report to the board may submit firm-reported hours in their annual CPA report forms to the board. If CPE credits will not be used, no firm report will be necessary.

(12) The board may look to recognized state or national accounting organizations for assistance in interpreting the acceptability of the credit to be allowed for individual courses. The board will accept programs meeting the standards set forth in the NASBA CPE registry, AICPA guidelines, or such other programs deemed acceptable to the board.

(13) For each 3-year reporting period, at least 96 of the hours reported shall be courses, programs or seminars whose content is in technical subjects such as audit; attestation; financial reporting; tax, management consulting; financial advisory or consulting; and other areas acceptable to the board as directly related to the professional competence of the individual.

(14) For each 3-year reporting period, at least 24 of the hours reported shall be taken outside of the individual's firm, agency, company, organization or normal work setting in a public presentation environment, which is defined as a group

program, classroom, live instructor setting in which at least 10 percent of the registered participants are not members, associates, clients, or employees of the firm, agency, company, organization or normal work environment.

(15) For each 3-year reporting period, credit will be allowed once for any single course, program or seminar unless the individual can demonstrate that the content of such course, program or seminar was subject to substantive technical changes during the reporting period.

E. Programs not qualifying for CPE:

(1) CPA examination review or "cram" courses;

(2) Industrial development, community enhancement, political study groups or similar courses, programs or seminars;

(3) Courses, programs or seminars that are generally for the purpose of learning a foreign language;

(4) Partner, shareholder or member meetings, business meetings, committee service, and social functions unless they are structured as formal programs of learning adhering to the standards prescribed in this rule.

F. Continuing professional education records requirements: When applications to the board require evidence of CPE, the applicants shall maintain such records necessary to demonstrate evidence of compliance with requirements of this rule.

(1) Reinstatement and reciprocity applicants shall file with their applications a signed report form and statement of the CPE credit claimed. For each course claimed, the report shall show the sponsoring organization, location of program, title of program or description of content, the dates attended, and the hours claimed.

(2) Responsibility for documenting program acceptability and validity of credits rests with the licensee and CPE sponsor. Such documentation should be retained for a period of 5 years after program completion and at minimum shall consist of the following:

(a) copy of the outline prepared by the course sponsor along with the information required for a program to qualify as acceptable CPE as specified in this rule; or

(b) for courses taken for scholastic credit in accredited universities and colleges, a transcript reflecting completion of the course. For non-credit courses taken, a statement of the hours of attendance, signed by the instructor, is required.

(3) Institutional documentation of completion is required for formal, individual self-study/correspondence programs.

(4) The board may verify CPE reporting information from applicants at its

discretion. Certificate holders/licensees or prospective certificate holders/licensees are required to provide supporting documentation and/or access to such records and documentation as necessary to substantiate validity of CPE hours claimed. Certificate holders/licensees are required to maintain documentation to support CPE hours claimed for a period of 5 years after course completion/CPE reporting. Should the board exercise its discretion to accept an affidavit in lieu of a CPE report, the board shall audit certificate/license holder CPE rules compliance of no less than 10 percent of active CPA/RPA licensees annually.

(5) In cases where the board determines requirements have not been met, the board may grant an additional period of time in which CPE compliance deficiencies may be removed. Fraudulent reporting is a basis for disciplinary action.

(6) The sponsor of a continuing education program is required to maintain an outline of the program and attendance/registration records for a period of 5 years after program completion.

(7) The board may, at its discretion, examine certificate holder/licensee or CPE sponsor documentation to evaluate program compliance with board rules. Non-compliance with established standards may result in denial of CPE credit for non-compliant programs and may be a basis for disciplinary action by the board for fraudulent documentation and representation by a CPE sponsor or certificate holder/licensee of a knowingly non-compliant CPE program.

[16.60.3.15 NMAC - Rp 16 NMAC 60.6.6, 02-14-2002; A, 09-16-2002; A, 06-15-2004]

NEW MEXICO PUBLIC ACCOUNTANCY BOARD

This is an amendment to 16.60.4.10 NMAC, effective 06-15-04.

16.60.4.10 PEER REVIEW REQUIREMENTS:

A. Participation: A firm seeking to obtain or renew a firm permit to engage in the practice of public accountancy in New Mexico must undergo a peer review at least once every 3 years beginning with initial firm permit application. Peer review program objectives are established pursuant to Section 13I of the act to monitor compliance with applicable accounting and auditing standards adopted by generally recognized standard-setting bodies. Emphasis is on education, including appropriate education programs or remedial procedures that may be recommended or required where reporting does not comply with appropriate professional standards.

(1) Firms contracting to perform audits of state agencies as defined in the Audit Act must also comply with peer review standards applicable to those audits.

(2) Participation is required of each firm registered with the board who performs accounting and auditing engagements, including but not limited to audits, reviews, compilations, attestations, forecasts, or projections.

B. Reporting to the board: ~~[At the time of annual firm permit renewal, firms]~~ Within 90 days from the scheduled due date of the peer review for those administered by state societies and 150 days for all others, the firm must submit a copy of the interim or conditional or final acceptance letter or any combination of the above from the administering entity. This must be accompanied by the letter of comments, the reviewer's report, and other supporting documentation as requested by the board.

(1) If ~~[at the time of firm permit renewal]~~ within 90 days from the scheduled due date of the peer review for those administered by state societies and 150 days for all others the firm cannot provide the final acceptance letter, the firm must submit a letter to the board ~~[with the permit renewal application]~~ explaining its failure to comply. The board may take disciplinary action for failure to comply.

(2) Each holder of a board-issued firm permit shall schedule a review to commence no later than the end of their first year of operations. Firms applying for their initial permit with a current (within the 3 years preceding initial application) peer review acceptance letter may submit that year's acceptance letter in support of their initial application and shall then schedule and maintain a subsequent review for each successive 3-year review period thereafter.

(3) Upon completion of the scheduled peer review, each firm shall schedule and maintain subsequent reviews for each successive 3-year period thereafter. It is the responsibility of the firm to anticipate its needs for review services in sufficient time to enable completion and acceptance of the review within the requirement of each successive 3-year reporting period.

(4) The board, at its sole discretion, may grant any reasonable extensions that it deems necessary.

C. Peer review program standards:

(1) The board adopts the standards for performing and reporting on peer reviews or any successor standards for peer review promulgated by the American institute of certified public accountants (AICPA) as its minimum standards for review of practice firms. This shall not require a membership in any specific administering entity or the AICPA.

(2) Approved administering entities shall be AICPA, the national society of accountants (NSA) and state CPA societies fully involved in the administration of the AICPA peer review program and such other entities which register with and are approved by the board on their adherence to the peer review minimum standards.

(3) The board may, for cause, revoke approval of an administering entity. [16.60.4.10 NMAC - Rp 16 NMAC 60.11.8 & 16 NMAC 60.11.9, 02-14-2002; A, 06-15-2004]

NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.1 NMAC, Sections 2, 7 and 17, effective July 1, 2004.

16.27.1.2 SCOPE: All professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health counselors, and registered and licensed mental health counselors, alcohol and drug abuse counselors, alcohol abuse counselors, drug abuse counselors, and substance abuse ~~[Interns]~~ trainees.

[16.27.1.2 NMAC - Rp 16 NMAC 27.1.2, 6-15-01; A, 7-1-04]

16.27.1.7 DEFINITIONS

A. AATA means the American art therapy association.

B. AAMFT means the American association for marriage and family therapy.

C. Accredited institution means a university or college accredited by a regional accrediting agency of institutions of higher education.

D. Regionally accredited means a college or university that was accredited at the time of the applicant's graduation by one of the following:

(1) the New England association of schools and colleges;

(2) the middle states association of colleges and schools;

(3) the north central association of colleges and schools;

(4) the northwest association of schools and colleges;

(5) the southern association of schools and colleges; or

(6) the western association of schools and colleges.

E. ~~[Allied Mental Health Field means counseling related field as defined in 16.27.1.7-I, to include a graduate masters or doctoral degree from an accredited institution whose curriculum for train-~~

~~ing counselors provides a course of study]~~ Counseling related field means counseling guidance and counseling, mental health/community counseling or agency counseling; clinical psychology, counseling psychology; family studies; art therapy, or art education whose curriculum for training counselors provides a course of study equivalent to a minimum equivalent to a minimum of 33 semester hours or 44 quarter hours required in the mental health clinical core curriculum and 9 semester hours or 12 quarter hours of practicum, [as defined in Part 2] and additional hours required for the professional clinical mental health counselor (LPCC) license.

F. ~~[Board Approved]~~ Education and training for substance abuse counselors means formal classroom education, workshops, seminars, institutes, in-service training programs, professional continuing education and coursework from accredited and non-accredited institutions, ~~[which has been approved by the Board, including 300 hours of of practicum in the twelve core functions listed below.]~~ Practicum as it relates to the substance abuse counselor includes 300 hours in the twelve core functions listed below.

- (1) screening
- (2) intake
- (3) orientation
- (4) assessment
- (5) treatment planning
- (6) counseling
- (7) case management
- (8) crisis intervention
- (9) client education
- (10) referral
- (11) reports and record keeping
- (12) consultation with profession-

als

G. Clinical client contact hours means the time spent with a client to appraise, diagnose and treat psychopathology as determined by the scope of practice.

H. Contact hour for professional training or client contact means sixty minutes equals an hour of training or contact.

~~[I. Counseling Related Field means counseling, to include guidance and counseling, mental health/community counseling or agency counseling; psychology, clinical psychology; counseling psychology; family studies; art; art therapy; expressive therapies, education; or art education.~~

~~[J.]~~ I. DSM means diagnostic and statistical manual of mental disorders.

~~[K.]~~ J. Face-to-face supervision means either group or individual supervision where the supervisor is in the same physical location as the supervisee, and is responsible for the direction and oversight of the development of counseling skills.

~~[K-]~~ K. Group supervision means face-to-face supervision:

(1) prior to July 1, 1994, no more than 20 individuals may have been included in the group;

(2) effective July 1, 1994, group supervision may be rendered to not more than six individuals for a one-and-one-half-hour session or not more than four individuals for a one-hour session.

~~[M-]~~ L. ICD means international classification of diseases.

~~[N-]~~ M. Individual supervision means face-to-face case consultation between the supervisor and no more than two supervisees related only to the supervisee's cases for a continuous 50 to 60 minutes, or for one supervisee for a continuous 25 to 30 minutes.

~~[O-]~~ N. LAAC means a New Mexico licensed alcohol abuse counselor.

~~[P-]~~ O. LADAC means a New Mexico licensed alcohol and drug abuse counselor.

~~[Q-]~~ P. LDAC means a New Mexico licensed drug abuse counselor.

~~[R-]~~ Q. LMFT means a New Mexico licensed marriage and family therapist.

~~[S-]~~ R. LPAT means a New Mexico licensed professional art therapist.

~~[T-]~~ S. LPC means a New Mexico licensed professional mental health counselor.

~~[U-]~~ T. LPCC means a New Mexico licensed professional clinical mental health counselor.

~~[V-]~~ U. ~~[LSA]~~ LSAT means a New Mexico licensed substance abuse ~~[intern]~~ trainee.

~~[W-]~~ V. LMHC means a New Mexico licensed mental health counselor

~~[X-]~~ W. Postgraduate means after all master's or doctorate requirements have been completed.

~~[Y-]~~ X. Psychopathology means mental disorders that meet the diagnostic criteria contained in the DSM of the American psychological association or the world health organization's international classification of diseases and the problems in living associated with these conditions that are created over time or etiology and life effects.

~~[Z-]~~ Y. Practice of alcohol and drug abuse counseling as independent practice is only at the level of approved supervisors as determined by Part 10, Section 16.27.10.7. The counselor has the ability to demonstrate specialized knowledge and skills as pertains to substance use disorders according to current DSM or ICD. The counselor shall be able to demonstrate skill and interventions directly related to individuals, couples, families, and groups. The counselor shall be able to employ practice

theory and research findings in all aspects of the licensee's practice. The counselor may supervise alcohol and/or drug counselors if approved under. Part 10, Section 16.27.10.7

~~[AA-]~~ Z. Practice of alcohol abuse counseling is practice under appropriate supervision and the ability to demonstrate specialized knowledge skills as pertains to alcohol use disorders according to current DSM or ICD. The counselor shall be able to demonstrate skill and interventions directly related to individuals, couples, families, and groups. The counselor shall be able to employ practice theory and research findings in all aspects of the licensee's practice. The services may include screening, assessment, consultation, development of treatment plans, case management, counseling, referral, appraisal, crisis intervention, education, reporting and record keeping as pertains specifically to alcohol abuse counseling.

~~[BB-]~~ AA. Practice of drug abuse counseling is practice under appropriate supervision and the ability to demonstrate specialized knowledge skills as pertains to substance use disorders according to current DSM or ICD. The counselor shall be able to demonstrate skill and interventions directly related to individuals, couples, families, and groups. The counselor shall be able to employ practice theory and research findings in all aspects of the licensee's practice. The services may include screening, assessment, consultation, development of treatment plans, case management, counseling, referral, appraisal, crisis intervention, education, reporting and record keeping as pertains specifically to drug abuse counseling.

~~[CC-]~~ BB. Practice as a substance abuse ~~[Intern functions only under 100 percent direct observation for the first six months; 50 percent direct observation for the second six months; and 10 percent direct observation for the remaining years by an appropriate supervisor]~~ trainee appropriate supervision. Practice is limited as an employee in a public or private institution. The ~~[intern]~~ trainee provides generalist services in the role of educator, assistant, and mediator. The ~~[intern]~~ trainee may be involved in taking social histories and/or conducting home studies. The ~~[intern]~~ trainee utilizes the basic problem-solving process of gathering information, assessing that information at a beginning professional level, and developing an intervention plan. The ~~[intern]~~ trainee in the role of educator, assistant and mediator, shall implement the plan and conduct follow-ups as pertains specifically to alcohol and/or drug abuse counseling.

~~[DD-]~~ CC. Registered independent mental health counselor means

an individual who is certified to practice without supervision.

~~[EE-]~~ ~~Related Mental Health Field means an allied mental health field or a counseling related field.~~

~~[FF-]~~ DD. Semester hour for the purpose of continuing education means one semester credit hour is equal to fifteen contact hours. Ninety graduate quarter hours are equal to 60 graduate semester hours.

~~[GG-]~~ EE. Supervision means face-to-face contact between the individual and the appropriate supervisor during which the supervisor monitors, guides and evaluates the ability to interact, diagnose and treat each client.

[16.27.1.7 NMAC - Rp 16 NMAC 27.1.7, 6-15-01; A, 7-1-04]

16.27.1.17 LICENSE CHANGE INFORMATION: All name changes and address changes must be submitted to the board in writing.

[16.27.1.17 NMAC - N, 7-1-04]

NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.2 NMAC, Sections 7 and 8, effective July 1, 2004.

16.27.2.7 DEFINITIONS: Mental health clinical core curriculum as used in Part 4, Part 8, and Part 9 means a curriculum for training counselors that includes graduate-level coursework within 10 core curriculum areas. Course work that makes up the ~~[60]~~ 48 hours to meet the statutory requirement includes - ~~[48]~~ 33 clinical semester hours including 9 semester hours of practicum - the remaining course work needed to complete [60] the 48 graduate hours [are] is to be distributed as electives among the 10 core curriculum areas derived from program approved courses. [16.27.2.7 NMAC - N, 6-15-01; A, 7-1-04]

16.27.2.8 MENTAL HEALTH CLINICAL CORE CURRICULUM: The core curriculum must be met using only transcribed courses dedicated to the required course area, thesis or dissertation will not be accepted, partitioning, divisioning, or sectioning of courses into various core course areas will not be accepted. The ~~[40]~~ 11 core curriculum graduate areas of study include the following:

A. Human growth and development: A minimum of 3 semester hours or 4 quarter hours of graduate coursework in studies that provide an understanding of the nature and needs of individuals at all developmental levels. ~~[Studies in this~~

~~area must include;~~ Essential components include, the following:

(1) theories of individual ~~[and family]~~ development and transitions across the life-span;

(2) theories of learning and personality development;

(3) human behavior including an understanding of developmental crises, disability, addictive behavior, psychopathology, and environmental factors as they affect both normal and abnormal behavior;

(4) strategies for facilitating development over the life span; and

B. Social and cultural foundations: A minimum of 3 semester hours or 4 quarter hours of graduate coursework in studies that provide an understanding of issues and trends ~~[in a]~~ with multicultural and diverse ~~[society. Studies in this area must]~~ populations. Essential components include, the following:

(1) ~~[multicultural and pluralistic trends including characteristics and concerns of diverse groups;]-~~theories of multicultural counseling;

(2) prejudicial attitudes and behavior based on such factors as age, race, religious preference, physical disability, sexual orientation, ethnicity and culture, family patterns, gender, socioeconomic status, and intellectual ability;

(3) individual, family, and group strategies with diverse populations;

C. Helping relationships: A minimum of 3 semester hours or 4 quarter hours of graduate coursework in studies that provide an understanding of counseling and consultation processes. ~~[Studies in this area must]~~ Essential components include, the following:

(1) counseling and consultation theories including both individual and systems perspectives ~~[as well as coverage of relevant research and factors considered in applications];~~

~~[(2) basic interviewing, assessment, and counseling skills;]~~

~~[(3)] (2) counselor or consultant characteristics and behaviors that influence helping processes, including age, gender and ethnic differences, [verbal and nonverbal behaviors] and personal characteristics [orientations, and skills];~~

~~[(4)] (3) client or consultee characteristics and behaviors that influence helping processes, including age, gender and ethnic differences, verbal and nonverbal behaviors and personal characteristics, traits, capabilities, and life circumstances; and~~

D. Group work: A minimum of 3 semester hours or 4 quarter hours of graduate coursework in studies that provide an understanding of group development, dynamics, counseling theories, group

counseling methods and skills, and other group work approaches. ~~[Studies in this area must]~~ Essential components include, the following:

(1) ~~[principles]~~ theories of group dynamics including group process ~~[components]~~, developmental ~~[stage theories]~~ stages, and group members' roles and behaviors;

(2) group leadership styles and approaches including ~~[characteristics of]~~ the various types of ~~[group leaders and leadership styles]~~ groups;

~~[(3) theories of group counseling including commonalities, distinguishing characteristics, and pertinent research and literature;~~

~~[(4)] (3) [group counseling methods including group counselor orientations and behaviors, ethical standards, appropriate selection criteria and methods, and methods of evaluating effectiveness;] staged appropriate group counseling techniques and methods of evaluating effectiveness; and;~~

~~[(5) approaches used for other types of group work, including task groups, prevention groups, support groups, and therapy groups; and]~~

E. Career and lifestyle development: A minimum of 3 semester hours or 4 quarter hours of graduate coursework in studies that provide an understanding of career development and related life factors. ~~[Studies in this area]~~ Essential components include, the following:

(1) career development theories and decision-making models;

(2) ~~[career, vocational, educational, and]~~ labor market information resources, ~~[visual and print media,]~~ and including accessing computer-based career information systems;

(3) career development program planning, organization, implementation, administration, and evaluation;

(4) interrelationships among work, family, and other life roles and factors, including multicultural and gender issues as they relate to career development;

~~[(5) career and educational placement, follow-up and evaluation;~~

~~[(6)] (5) assessment instruments and techniques relevant to career planning and decision-making; and~~

~~[(7) career counseling processes, techniques, and resources, including those applicable to specific populations; and]~~

F. Appraisal: A minimum of 3 semester hours or 4 quarter hours of graduate coursework in studies that provide an understanding of individual and group approaches to assessment and evaluation. ~~[Studies in this area]~~ Essential components include, the following:

(1) theoretical and historical

bases for assessment ~~[techniques];~~

~~(2) [validity, including evidence for establishing content, construct, and empirical validity;-] selection, administration and interpretation of psychological tests considering examinee characteristics such as age, gender and cultural background;~~

~~(3) [reliability, including methods of establishing stability, internal and equivalence reliability] validity and reliability of appraisal instruments;~~

~~[(4) appraisal methods, including environmental assessment, performance assessment, individual and group test and inventory methods, behavioral observations, and computer managed and computer-assisted methods;~~

~~[(5)] (4) psychometric statistics, including types of assessment scores, measures of central tendency, indices of variability, standard errors, and correlations;~~

~~[(6)] (5) age, gender, ethnicity, language, disability, and culture factors related to the assessment and evaluation of individuals and groups;~~

~~[(7)] (6) strategies for selecting, administering, interpreting and using assessment and evaluation instruments and techniques in counseling; and.~~

G. Research ~~[and Program Evaluation]~~ methods: A minimum of 3 semester hours or 4 quarter hours of graduate coursework and studies that provide an understanding of types of research methods, basic statistics, and ethical and legal considerations in research. ~~[Studies in this area]~~ Essential components include, the following:

(1) basic types of research methods to include qualitative and quantitative research designs;

~~[(2) basic parametric and non-parametric statistics;~~

~~(3) principles, practices, and applications of needs assessment and program evaluation;~~

~~[(4)] (2) uses of [computers for data management and analysis] statistics software programs; and~~

H. Professional orientation: A minimum of 3 semester hours 4 quarter hours of graduate coursework in studies that provide an understanding of all aspects of professional functioning including history, roles, organizational structures, ethics, standards, and credentialing. ~~[Studies in this area]~~ Essential components include the following:

(1) history of the helping professions ~~[, including significant factors and events];~~

(2) professional roles ~~[and functions]~~ scope of practice, including similarities and differences with other types of professionals;

(3) professional organizations, primarily the American counseling association, its divisions, branches, and affiliates, including membership benefits, activities, services to members, and current emphases;

(4) ethical standards of the American counseling association and related entities, ethical and legal issues, and their applications to various professional activities [~~e.g., appraisal, group work~~];

~~(5) professional preparation standards, their evolution, and current applications;~~

~~(6) (5) professional credentialing including certification, licensure and accreditation practices and standards [~~and the effects of public policy on these issues~~]; and~~

~~(7) public policy processes including the role of the professional counselor in advocating on behalf of the profession and its clientele;]~~

I. Specialized clinical studies: A minimum of ~~[45]~~ 12 semester hours or ~~[25]~~ 18 quarter hours of graduate coursework in studies that provide an understanding of all aspects of diagnosis and treatment of mental disorders. Studies in this area to include, but are not limited to, the following:

- (1) clinical case study
- (2) psychodynamics and psychotherapy

~~(3) DSM-IV Diagnosis~~

~~(4) (3) treatment planning~~

~~(5) (4) clinical supervision~~

~~(6) (5) psychopharmacology~~

~~(7) (6) advanced testing~~

~~(8) (7) addictions~~

~~(9) (8) psychopathology~~

~~(10) (9) clinical theory and practice~~

J. Supervised practicum: A minimum of 9 semester or ~~[45]~~ 12 quarter hours of graduate coursework in practicum and/or internship. The practicum and/or internship training shall focus on the provision of counseling services within a professional setting under the direction of a faculty member and/or on-site supervisor designated by the college or university.

[16.27.2.8 NMAC - Rp 16 NMAC 27.1.7.24, 6-15-01; A, 7-1-04]

NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.3 NMAC, Sections 2, 8 and 11, effective July 1, 2004.

16.27.3.2 SCOPE: All professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health

counselors, registered and licensed mental health counselors, alcohol and drug abuse counselors, alcohol abuse counselor, drug abuse counselor, and substance abuse ~~[Intern] trainee.~~

[16.27.3.2 NMAC - Rp 16 NMAC 27.3.2, 6-15-01; A, 7-1-04]

16.27.3.8 APPLICATIONS FOR LICENSURE ~~[OR REGISTRATION]~~

A. All applicants must submit the following documentation to the board:

(1) ~~a~~ completed application, signed by the applicant, and notarized ~~(applied date, is the date the application is received and stamped in board office);~~

(2) a 2" inch by 2" inch photograph of the applicant taken within the preceding six months, affixed to the application;

(3) ~~an~~ application fee of \$75 as provided in Part 10;

(4) other documentation required in Parts 4 through 8 and Parts 18 through 23 to document supervision, any additional training or coursework, work experience and client contact hours.

B. The applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree. The transcript must be submitted with the application (unopened). Also required is a statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's supervised experience and setting forth the nature and extent of such supervision must be submitted with the application (unopened).

C. ~~[Effective July 1, 1995]~~ Applications will be valid for a period not to exceed six months. An applicant wishing to re-apply after six months must submit a new application, including the application fee and all documentation.

D. Applicants who are found ineligible because of experience or education deficiencies may request licensure at another level. This request shall be on a form approved by the board and made within six months of the date the applicant was notified they are ineligible for which the original level applied. There will be a \$25 fee for re-review of the application.

[16.27.3.8 NMAC - Rp 16 NMAC 27.3.8, 6-15-01; A, 7-1-04]

16.27.3.11 RETIREMENT STATUS

A. A licensed or registered person may request retirement status by notifying the board in writing before the expiration of the current New Mexico

license.

B. A retired license or registered status may be restored within five years of being placed on retirement status by notifying the board in writing, prior to the expiration of five retirement years. Upon receiving the request for reinstatement, board staff shall send an application for reinstatement of license.

(1) Along with the completed application, the request for reinstatement must include ~~[all lapsed]~~ renewal ~~[fees]~~ fee, reinstatement fee, and proof of 20 hours per year of continuing education courses.

(2) Continuing education must be acquired after the license has been placed on retirement status.

[16.27.3.11 NMAC - Rp 16 NMAC 27.3.11, 6-15-01; A, 7-1-04]

NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.4 NMAC, Sections 8, 9, 11 and 12, effective July 1, 2004

16.27.4.8 APPROPRIATE SUPERVISION

~~[A- Prior to July 1, 1994, appropriate supervision shall be supervision provided by a licensed and/or certified psychologist, psychiatrist, clinical social worker, or psychiatric nurse; or an art therapist, marriage and family therapist, professional clinical counselor, professional counselor, or rehabilitation counselor eligible for licensure under this act.]~~

~~[B-]~~ A. Supervision received after July 1, 1994, must be provided by a licensed individual as defined: For licensure as a professional clinical mental health counselor (LPCC), the supervision must be provided by a licensed professional clinical mental health counselor, licensed marriage and family therapist, licensed professional art therapist, licensed psychiatrist, licensed independent social worker or licensed psychologist with education and experience in clinical mental health counseling;

B. Supervision received after July 1, 2003, for licensure as a clinical mental health counselor (LPCC) to perform diagnoses must be provided by a licensed clinical supervisor as defined: supervision must be provided by a licensed professional clinical mental health counselor, licensed marriage and family therapist, licensed professional art therapist, licensed psychiatrist, licensed clinical psychologist, clinical nurse specialist in psychiatry or licensed independent social worker with two years of mental health and supervised clinical expe-

rience.

C. It is the responsibility of the individual seeking supervision to ensure that the supervision is acceptable for the level of licensure that will be requested at the completion of the required supervision. The relationship between the supervisor and the applicant must promote the development of skill and responsibility in the delivery of counseling or therapy services.

D. Client contact and supervision hours prior to being licensed will not be applicable for licensure. [16.27.4.8 NMAC - Rp 16 NMAC 16.27.1.7.5, 6-15-01; A, 7-1-04]

16.27.4.9 APPLICANTS FOR LICENSURE: AS A PROFESSIONAL CLINICAL MENTAL HEALTH COUNSELOR (LPCC) MUST POSSESS THE FOLLOWING QUALIFICATIONS AND PROVIDE THE REQUIRED DOCUMENTATION WITH THE APPLICATION

A. Age requirement. Be at least 21 years of age.

B. ~~[Applicant must be of good moral character, with conduct consistent with the Code of Ethics.] Code of ethics statement: Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics, and~~

C. Education requirements. Hold a master's or doctoral degree in counseling or ~~[an allied mental health] a counseling-related field from a [nationally] regionally accredited institution.~~

~~[(4)] Effective July 1, [1998] 2003, applicants must have a master's or doctoral degree in [an allied mental health field] counseling or a counseling field and a total of [60 semester graduate hours or 90 quarter graduate hours or more which includes no less than forty-eight graduate hours] no less than forty-eight (48) graduate semester hours or seventy-two (72) quarter graduate hours in the mental health clinical core curriculum as defined in Part 2. The hours must be acquired as a part of a master's or doctoral degree, or acquired as additional graduate education to complete the required 48 clinical core curriculum hours [plus 12 elective hours from the clinical curriculum from an accredited institution, after completing a graduate degree. All applicants who completed their degree requirements prior to July 1, 1998, will be required to complete additional graduate education from an accredited institution.~~

~~(2) Individuals who believe they have a degree in an allied mental health field may appeal to the Board for consideration of equivalency. Equivalency will be~~

~~determined through a review of the transcripts to determine a course of study that is equivalent to the mental health clinical core curriculum].~~

D. Experience requirements.

(1) A minimum of two years' postgraduate professional clinical counseling experience. A year is defined as 12 months during which the applicant can show evidence of having no less than 500 hours of clinical client contact hours.

(2) Evidence of having participated in a total of at least 3,000 hours of postgraduate clinical client contact. One thousand clinical client contact hours may be from the applicant's internship or practicum. Postgraduate experience of at least 100 hours of face-to-face supervision. ~~[After June 30, 1994, appropriate face to face postgraduate supervision must be received from an individual with education, clinical experience and supervisory experience in the field of clinical counseling.]~~

[16.27.4.9 NMAC - Rp 16 NMAC 16.27.4.8, 6-15-01; A, 7-1-04]

16.27.4.11 DOCUMENTATION REQUIRED FOR LICENSURE

A. A completed application as specified in Part 3.

B. Proof of education and experience requirements:

(1) The applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree, a total of ~~[60 graduate hours] no less than forty-eight (48) graduate semester hours or seventy-two (72) quarter graduate hours~~ which includes the required 48 clinical core curriculum. The transcript must be submitted in a sealed envelope with the application ~~[(unopened)]. Applicants educated in foreign institutions who are unable to submit certified official transcripts shall submit a statement explaining why such transcripts are not available and shall submit certified copies of the degree certificates granted, information on the curricula offered, and any other documentation requested by the Board]; and~~

(2) A statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's supervised experience and setting forth the nature and extent of such supervision must be submitted with the application ~~[(unopened)]. The statement shall verify that the applicant's performance was in accordance with adequate counseling and therapy standards of practice. If a supervisor's statement is not available, the applicant may submit documentation explaining why the supervisor's statement is not available and sworn affidavits from~~

other individuals verifying that supervision took place and describing the nature and the extent of the supervision.

(3) Documentation of 3,000 hours of postgraduate clinical client contact and 100 hours of appropriate face to face postgraduate supervision. Additional documentation of client contact hours must be provided to the board upon request.

(4) Attachment E, listing only specific graduate coursework. A course syllabus and actual course catalogue descriptions for all courses must be included.

(5) Documentation of the applicant's licensure, registration or certification status must be submitted on attachment form A which must be sent directly to the board by the jurisdiction in which the applicant is licensed, certified or registered.

[16.27.4.11 NMAC - Rp 16 NMAC 27.4.11, 6-15-01; A, 7-1-04]

16.27.4.12 LICENSURE BY CREDENTIALS

~~[A. submit a completed application per 16.27.3.8~~

~~B. meet all education, experience, examination and supervision requirements substantially equivalent or exceeding those set forth by New Mexico statute and rule.~~

~~C. Documentation: Documentation of the applicant's licensure, registration or certification status must be submitted on Application Attachment Form A which must be sent directly to the Board by the jurisdiction in which the applicant is licensed, certified or registered and an official copy of the applicant's transcripts.]~~

~~A. A completed application as specified in Part 3;~~

~~B. Documentation (attachment A) that the applicant holds a current license issued by the appropriate examining board under the law of any other state or territory of the United States, the District of Columbia or any foreign nation and;~~

~~C. Documentation: Verification directly from the national board of certified counselors (NBCC) that the applicant is a current nationally certified clinical mental health counselor as determined by the national board of certified counselor (NBCC).~~

~~D. The applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree.~~

[16.27.4.12 NMAC - Rp 16 NMAC 16.27.9.8 & 9, 6-15-01; A, 7-1-04]

**NEW MEXICO
COUNSELING AND
THERAPY PRACTICE
BOARD**

This is an amendment to 16.27.5 NMAC, Sections 8, 9, 10, 11, and 12 effective July 1, 2004.

16.27.5.8 APPLICANTS FOR LICENSURE: As a professional clinical mental health counselor (LPCC) must possess the following qualifications and provide the required documentation with the application.

A. Age requirement. Be at least 21 years of age.

B. ~~[Applicant must be of good moral character, with conduct consistent with the Code of Ethics]~~ Code of ethics statement: Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics, and

C. Licensure requirements. Hold a grandfathered professional mental health counselor license which was applied for prior to July 1, 1994.

D. Education requirements. Hold a master's or doctoral degree from a regionally accredited institution. Applications must be received during the period July 1, 2000 through July 1, 2004. Applicants must have a master's or doctoral degree and a total of ~~[sixty]~~ forty-eight (48) semester graduate hours or [90] seventy-two (72) quarter hours [which meets the mental health clinical core curriculum as defined in Part 2. The hours must be acquired as part of a master's or doctoral degree, or acquired as additional graduate education to complete the required sixty hours from an accredited institution, after completing a graduate degree] from a regionally accredited institution; and

E. Experience requirements.

(1) evidence of having participated in a minimum of 10,000 client contact experience and a minimum of 300 hours of face-to-face supervision of which 100 must be individual received from an individual with education, clinical experience and supervisory experience in the field of clinical counseling; or

(2) evidence of having participated in a minimum of 5,000 client contact experience and a minimum of 200 hours of face-to-face supervision of which 100 must be individual from an individual with education, clinical experience and supervisory experience in the field of clinical counseling; and must take examination.

[16.27.5.8 NMAC - Rp 16 NMAC 27.25.8,

6-15-01; A, 7-1-04]

16.27.5.9 EXAMINATION: ~~[Except for]~~ Applicants meeting the ~~[10,000]~~ 5,000 client contact hours and ~~[300]~~ 200 hours of face to face supervision, applicants must demonstrate professional competency by satisfactorily passing an examination selected and approved by the board.

[16.27.5.9 NMAC - Rp 16 NMAC 27.25.9, 6-15-01; A, 7-1-04]

16.27.5.10 DOCUMENTATION REQUIRED FOR LICENSURE

A. A completed application as specified in Part 3.

B. Proof of education and experience requirements:

(1) the applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree and the required ~~[60]~~ forty-eight (48) semester graduate hours or seventy-two (72) quarter hours, and;

(2) a statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's client contact and supervision experience and setting forth the nature and extent of such supervision must be submitted with the application (unopened); the statement shall verify that the applicant's performance was in accordance with adequate counseling and therapy standards of practice; if a supervisor's statement is not available, the applicant may submit documentation explaining why the supervisor's statement is not available and sworn affidavits from other individuals verifying that supervision took place and describing the nature and the extent of the supervision.

(3) documentation of the appropriate hours of client contact and ~~[100 hours of]~~ appropriate face to face supervision; additional documentation of client contact hours must be provided to the board upon request.

~~[(4) Attachment E, listing only specific graduate coursework. A course syllabus and actual course catalogue descriptions for all courses must be included.]~~

~~[(5)]~~ (4) documentation of the applicant's licensure, registration or certification status must be submitted on attachment form A which must be sent directly to the board by the jurisdiction in which the applicant is licensed, certified or registered. [16.27.5.10 NMAC - Rp 16 NMAC 27.25.10, 6-15-01; A, 7-1-04]

16.27.5.11 REQUIREMENTS FOR LICENSURE AS A PROFESSIONAL CLINICAL MENTAL HEALTH COUNSELOR FOR LPC'S THAT WAS

APPLIED FOR BETWEEN JULY 1, 1994 THROUGH JULY 1, 1998

A. Applicants for licensure: As a professional clinical mental health counselor (LPCC) must possess the following qualifications and provide the required documentation with the application.

B. Age requirement. Be at least 21 years of age.

C. Code of ethics statement: Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics.

D. Licensure requirements. Hold a professional mental health counselor license that was applied for between July 1, 1994 through July 1, 1998.

E. Education requirements. Hold a master's or doctoral degree from a regionally accredited institution. Applications must be received during the period July 1, 2003 through July 1, 2004. Applicants must have a master's or doctoral degree and a total of forty-eight (48) semester graduate hours or seventy-two (72) quarter hours from a regionally accredited institution.

F. Experience requirements: Evidence of having participated in a minimum of 5,000 client contact experience and a minimum of 200 hours of face-to-face supervision of which 100 must be individual from an individual with education, clinical experience and supervisory experience in the field of clinical counseling; and must take examinations selected by the board.

G. Examination: Applicants must demonstrate professional competency by satisfactorily passing the (NCA and NCMHCE) examinations. [16.27.5.11 NMAC - N, 7-01-04]

16.27.5.12 DOCUMENTATION REQUIRED FOR LICENSURE

A. A completed application as specified in Part 3.

B. Proof of education and experience requirements:

(1) the applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree and the required forty-eight (48) semester graduate hours or seventy-two (72) quarter hours graduate hours, and;

(2) a statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's client contact and supervision experience and setting forth the nature and extent of such supervision must be submitted with the application (unopened); the statement shall verify that the applicant's

performance was in accordance with adequate counseling and therapy standards of practice; if a supervisor's statement is not available, the applicant may submit documentation explaining why the supervisor's statement is not available and sworn affidavits from other individuals verifying that supervision took place and describing the nature and the extent of the supervision.

(3) documentation of the appropriate hours of client contact and appropriate face to face supervision; additional documentation of client contact hours must be provided to the board upon request.

[16.27.5.12 NMAC - N, 7-01-04]

NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.6 NMAC, Sections 8, 9, 11, and 12, effective July 1, 2004

16.27.6.8 SUPERVISION

A. Appropriate supervision.

~~[(1) Prior to July 1, 1994, appropriate supervision shall be supervision provided by a licensed and/or certified psychologist, psychiatrist, clinical social worker, or psychiatric nurse; or an art therapist, marriage and family therapist, professional clinical counselor, professional counselor, or rehabilitation counselor eligible for licensure under this act.]~~

[(2)] (1) Supervision received after July 1, 1994, must be provided by a licensed individual as defined: For licensure as a marriage and family therapist (LMFT), the supervision must be provided by a licensed marriage and family therapist; or an approved AAMFT supervisor, or an individual with a minimum of 2,000 hours of clinical practice in marriage and family therapy and is a licensed professional clinical mental health counselor, licensed professional art therapist, licensed psychiatrist, licensed psychologist, or licensed independent social worker with education in marriage and family therapy.

(2) Supervision received after July 1, 2003, for licensure as a marriage and family therapist (LMFT) to perform diagnoses must be provided by a licensed clinical supervisor as defined: the supervision must be provided by a licensed professional clinical mental health counselor, licensed marriage and family therapist, licensed professional art therapists, licensed psychiatrist, licensed clinical psychologist, clinical nurse specialist in psychiatry or licensed independent social worker with two years of mental health and supervision clinical experience.

(3) It is the responsibility of the individual seeking supervision to assure the supervision is acceptable for the level of licensure that will be requested at the completion of the required supervision. The relationship between the supervisor and the applicant must promote the development of skill and responsibility in the delivery of counseling or therapy services.

(4) Client contact and supervision hours prior to being licensed will not be applicable for licensure.

B. Marriage and family therapy core curriculum, means a curriculum for training marriage and family therapists that includes 45 semester hours or 67.5 quarter hours of graduate level coursework that embraces a family systems perspective and consists of the following areas of graduate study:

(1) Marriage and family studies- a minimum of 9 semester hours or 12 quarter-hours of graduate coursework. Course content in this area may include the study of the family life cycle, family development, family subsystems, family theories, blended families, gender issues and families, cultural issues and families, contemporary families, family and interpersonal relationships and family crisis. All courses in this area must come from a systems perspective where systems theory is a major focus of the course.

(2) Marriage and family therapy - a minimum of 9 semester hours or 12 quarter hours of graduate coursework in family therapy assessment, treatment and intervention methods. Major theoretical approaches that may be studied include: strategic, structural, object relations family therapy, behavioral family therapy, communication family therapy, intergenerational family therapy and systemic sex therapy. Courses should have a major focus on family systems theory and systemic interventions.

(3) Human development - a minimum of 9 semester hours or 12 quarter hours of graduate coursework. Courses in human development across the life span including special issues (e.g., culture, gender, human sexuality) would be appropriate. Topic areas may include human development, infant/child/adolescent development, psychopathology, personality theory, and human sexuality. Courses should have a systemic focus. Testing and measurement courses are NOT acceptable in this area.

(4) Multicultural studies - a minimum of 3 semester hours or quarter hours of graduate coursework, includes a systemic orientation relevant to diverse racial ethnic populations.

(5) Professional studies- a minimum of 3 semester hours or quarter hours of graduate coursework. Areas of study include legal issues and responsibilities,

professional liabilities, and ethics related to the practice of marriage and family therapy. Religious ethics and moral theology courses are NOT acceptable in this area.

(6) Research a minimum of 3 semester hours or quarter hours of graduate coursework. Courses in this area should assist the student in understanding and performing research. Topical areas may include: research design and methodology, quantitative methods and statistics. Personality and test and measurement courses are NOT accepted in this area.

(7) Supervised practicum- a minimum of 6 semester hours or 8 quarter hours of graduate coursework. As part of the 6 semester hours or 8 quarter hours of coursework, there must be a minimum of 300 hours of supervised direct client contact, for a period of at least 12 months, direct client contact, for a period of at least 12 months. Practicum students may only count hours in which they work directly with individuals, couples, and families for the purpose of assessment, diagnosis and treatment in marriage and family related issues.

(8) Electives from any area listed above satisfy the 45 semester-hour requirement. Remaining course work would be distributed as electives among the above areas.

[16.27.6.8 NMAC - Rp 16 NMAC 27.1.7.5, 6-15-01; A, 7-1-04]

16.27.6.9 APPLICANTS FOR LICENSURE: As a marriage and family therapist (LMFT) must possess the following qualifications and provide the required documentation with the application:

A. Age requirement. Be at least 21 years of age.

B. ~~[Applicant must be of good moral character, with conduct consistent with the Code of Ethics.]~~ Code of ethics statement: Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics, and

C. Education requirements. Hold a master's or doctoral degree from a ~~[nationally]~~ regionally accredited institution in marriage and family therapy, meets the requirements of the core curriculum in marriage and family therapy.

D. Experience requirements.

(1) A minimum of two years' postgraduate marriage and family therapy experience. A year is defined as 12 months during which the applicant can show evidence of having no less than 500 hours of clinical client contact hours.

(2) Evidence of having participated in a total of at least 1,000 hours of post-graduate marriage and family clinical client

contact.

(3) At least 200 hours of appropriate postgraduate marriage and family supervision, including at least 100 hours of individual supervision. The appropriate supervision must be received from an individual who has education, clinical experience and supervisory experience in the field of marriage and family therapy.

[16.27.6.9 NMAC - Rp 16 NMAC 27.5.8, 6-15-01; A, 7-1-04]

16.27.6.11 DOCUMENTATION REQUIRED FOR LICENSURE

A. A completed application as specified in Part 3.

B. Proof of education and experience requirements:

(1) the applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree; the transcript must be submitted with the application [~~unopened~~]; applicants educated in foreign institutions who are unable to submit certified official transcripts shall submit a statement explaining why such transcripts are not available and shall submit certified copies of the degree certificates granted, information on the curricula offered, and any other documentation requested by the board; and

~~[(2) Documentation of any additional courses to complete the marriage and family core curriculum to be evidenced by certificates of completion or other documentation required.]~~

~~[(3)]~~ (2) a statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's supervised experience and setting forth the nature and extent of such supervision must be submitted with the application [~~unopened~~]; the statement shall verify that the applicant's performance was in accordance with adequate counseling and therapy standards of practice; if a supervisor's statement is not available, the applicant may submit documentation explaining why the supervisor's statement is not available and sworn affidavits from other individuals verifying that supervision took place and describing the nature and the extent of the supervision.

~~[(4)]~~ (3) documentation of 1,000 postgraduate client contact hours in marriage and family therapy and 200 hours of appropriate postgraduate supervision in marriage and family therapy; additional documentation of client contact hours must be provided to the board upon request:

~~[(5)]~~ (4) attachment ~~[E]~~ D, listing only specific graduate coursework;

~~[(6)]~~ (5) documentation of the applicant's licensure, registration or certification status must be submitted on applica-

tion attachment form A, which must be sent directly to the board by the jurisdiction in which the applicant is licensed, certified, or registered.

[16.27.6.11 NMAC - Rp 16 NMAC 27.5.10, 6-15-01; A, 7-1-04]

16.27.6.12 LICENSURE BY CREDENTIALS:

~~[A. submit a completed application per 16.27.3.8~~

~~B. meet all education, experience, examination and supervision requirements substantially equivalent or exceeding those set forth by New Mexico statute and rule.~~

~~C. Documentation: Documentation of the applicant's licensure, registration or certification status must be submitted on Application Attachment Form A which must be sent directly to the Board by the jurisdiction in which the applicant is licensed, certified or registered and an official copy of the applicant's transcripts.]~~

~~A. Submit a completed application per 16.27.3.8~~

~~B. Documentation (attachment A) that the applicant holds a current license issued by the appropriate examining board under the law of any other state or territory of the United States, the District of Columbia or any foreign nation; and~~

~~C. Documentation: Verification directly from the American association of marriage and family therapy that the applicant is a current clinical member of the American association for marriage and family therapy (AAMFT).~~

~~D. The applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree.~~

[16.27.6.12 NMAC - Rp 16 NMAC 27.9.8&9, 6-15-01; A, 7-1-04]

NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.7 NMAC, Sections 8, 10, 13, and 14, effective July 1, 2004

16.27.7.8 SUPERVISION

A. Appropriate supervision.

~~[(1) Prior to July 1, 1994, appropriate supervision shall be supervision provided by a licensed and/or certified psychologist, psychiatrist, clinical social worker, or psychiatric nurse; or an art therapist, marriage and family therapist, professional clinical counselor, professional counselor,~~

~~or rehabilitation counselor eligible for licensure under this act.]~~

~~[(2)]~~ (1) Supervision received after July 1, 1994, must be provided by a licensed individual as defined: For licensure as an art therapist (LPAT), the supervision must be provided by a nationally registered art therapist, a licensed professional art therapist. Supervision can also be provided by the following professionals provided they have education and experience in art therapy: licensed psychiatrist, licensed psychologist, licensed independent social worker, licensed clinical mental health counselor, or licensed marriage and family therapist each with education and experience in art therapy;

~~[(2)]~~ Supervision received after July 1, 2003, for licensure as a art therapist (LPAT) to perform diagnoses must be provided by a licensed clinical supervisor as defined: the supervision must be provided by a licensed professional clinical health counselor, licensed marriage and family therapist, licensed professional art therapist, licensed psychiatrist, licensed clinical nurse specialist in psychiatry or licensed independent social worker with two years of mental health and supervised clinical experience.

(3) It is the responsibility of the individual seeking supervision to assure the supervision is acceptable for the level of licensure that will be requested at the completion of the required supervision. The relationship between the supervisor and the applicant must promote the development of skill and responsibility in the delivery of counseling or therapy services.

(4) Client contact and supervision hours prior to being licensed will not be applicable for licensure.

B. Supervised practicum/internship: Each student must be required to successfully complete supervised practicum as follows:

(1) at least six hundred (600) hours of supervised art therapy practice;

(2) at least 300 hours of supervised practice in which the student must be working directly with clients in individual, group, or family setting;

(3) the balance of the supervised hours must include discussion of student work with the supervisor(s) and related activities including, but not limited to, case review record keeping, preparation, and staff meetings.

C. Supervision: Supervision may take place on or off site.

(1) Art therapy supervision
(a) Individual supervision: For every ten (10) hours of client contact, there must be one (1) hour of supervision by a

registered art therapist (ATR). In New Mexico, a licensed professional art therapist (LPAT) or a qualified licensed professional art therapist (LPAT) or a qualified licensed professional in a related discipline with at least a master's degree.

(b) Group supervision: The ratio of eight (8) students to one (1) supervisor may not be exceeded for group supervision for every ten (10) hours of client contact.

(2) Agency supervision: For every ten (10) hours of related activity, there must be one (1) hour of supervision by either a registered art therapist (ATR, in New Mexico, a licensed professional art therapist (LPAT) or a qualified professional in a related discipline with at least a master's degree.

[16.27.7.9 NMAC - Rp 16 NMAC 27.1.7.5, 6-15-01; A, 7-1-04]

16.27.7.10 APPLICANTS FOR LICENSURE: AS A PROFESSIONAL ART THERAPIST (LPAT) MUST POSSESS THE FOLLOWING QUALIFICATIONS AND PROVIDE THE REQUIRED DOCUMENTATION WITH THE APPLICATION:

As a professional art therapist (LPAT) must possess the following qualifications and provide the required documentation with the application:

A. Age requirement. Be at least 21 years of age.

B. ~~[Applicant must be of good moral character, with conduct consistent with the Code of Ethics.]~~ Code of ethics statement: Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics, and

C. Education requirements. ~~[Hold a master's or doctoral degree from a nationally accredited or board approved program or institution, in]~~ Holds either:

(1) ~~[art therapy or]~~ a master's or doctoral degree from a regionally accredited or nationally approved art therapy program in art therapy that includes seven hundred hours of supervised internship experience form an accredited institution;

(2) a masters degree in counseling or a counseling related field. ~~[The Board will consider on a case by case basis other counseling related curriculums for approval based on standards equivalent to the existing art therapy standards, and]~~ that includes a minimum of ~~[24]~~ twenty-four (24) semester hours or thirty-six (36) quarter hours of sequential course work in the history, theory, and practice of art therapy and has completed seven hundred hours of supervised internship experience form an accredited institution. The board may approve on a

~~case-by-case basis applicants who have a master's degree or a doctoral degree from non-accredited institutions; or~~

~~(3) a masters degree in a counseling related field, and completed a minimum of twenty-four (24) semester hours or thirty-six (36) quarter hours in an art therapy certificated program from a regionally accredited institution or a nationally approved American art therapy association program.~~

D. Experience requirements: ~~One thousand client contact hours of postgraduate face to face experience under appropriate supervision beyond the requirements in Paragraphs (1), (2) and (3) of Subsection C of this section.~~

~~[(1) Graduates who hold a degree in art therapy must meet the following requirements:~~

~~(a) 600 hours supervised internship experience as part of the degree program;~~

~~(b) completed 1000 client contact hours of postgraduate experience under appropriate supervision;~~

~~(c) postgraduate experience of at least 100 hours of face to face supervision; and~~

~~(d) at least 50 hours of the supervision provided by a nationally registered art therapist.~~

~~(2) Graduates with a degree in a counseling related field must meet the following requirements:~~

~~(a) 700 hours of supervised internship experience from an accredited institution;~~

~~(b) 2000 client contact hours of postgraduate experience under appropriate supervision;~~

~~(c) postgraduate experience of at least 200 hours of face to face supervision; and~~

~~(d) at least 100 hours of the supervision provided by a nationally registered art therapist.]~~

[16.27.7.10 NMAC - Rp 16 NMAC 27.6.8, 6-15-01; A, 7-1-04]

16.27.7.13 DOCUMENTATION REQUIRED FOR LICENSURE

A. A completed application as specified in Part 3.

B. Proof of education and experience:

~~[(C-)]~~ (1) the applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree; the transcript must be submitted with the application ~~[(unopened)]~~; applicants educated in foreign institutions who are unable to submit certified official transcripts shall submit a statement explaining why such transcripts are not available and shall submit certified copies of the degree certifi-

cates granted, information on the curricula offered, and any other documentation requested by the board; and

~~[(D-)]~~ (2) a statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's supervised experience and setting forth the nature and extent of such supervision must be submitted with the application ~~[(unopened)]~~; the statement shall verify that the applicant's performance was in accordance with adequate counseling and therapy standards of practice; if a supervisor's statement is not available, the applicant may submit documentation explaining why the supervisor's statement is not available and sworn affidavits from other individuals verifying that supervision took place and describing the nature and the extent of the supervision;

~~[(E-)]~~ (3) documentation of required client contact hours and appropriate supervision; additional documentation of client contact hours must be provided to the board upon request;

~~[(F-)]~~ (4) attachment E, listing only specific graduate coursework;

~~[(G-)]~~ (5) documentation of the applicant's licensure, registration or certification status must be submitted on application attachment form A, which must be sent directly to the board by the jurisdiction in which the applicant is licensed, certified, or registered.

[16.27.7.13 NMAC - Rp 16 NMAC 27.6.10, 6-15-01; A, 7-1-04]

16.27.7.14 LICENSURE BY CREDENTIALS

~~[A-]~~ submit a completed application per 16.27.3.8.

~~B- meet all education, experience, examination, and supervision requirements substantially equivalent or exceeding those set forth by New Mexico statute and rule~~

~~C- Documentation: Documentation of the applicant's licensure, registration or certification status must be submitted on Application Attachment Form A, which must be sent directly to the Board by the jurisdiction in which the applicant is licensed, certified, or registered and an official copy of the applicant's transcripts.]~~

~~A- Submit a completed application per 16.27.3.8.~~

~~B- Documentation (attachment A) that the applicant holds a current license issued by the appropriate examining board under the law of any other state or territory of the United States, the District of Columbia or any foreign nation.~~

~~C- Documentation: that the applicant is a current registered art therapist, board certified (ATR-BC) by the art therapy credential board.~~

D. The applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree.

[16.27.7.14 NMAC - Rp 16 NMAC 27.9.8&9, 6-15-01; A, 7-1-04]

NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.8 NMAC, Sections 8, 9, 11 and 12, effective July 1, 2004.

16.27.8.8 APPROPRIATE SUPERVISION

~~[A. Prior to July 1, 1994, appropriate supervision shall be supervision provided by a licensed and/or certified psychologist, psychiatrist, clinical social worker, or psychiatric nurse; or an art therapist, marriage and family therapist, professional clinical counselor, professional counselor, or rehabilitation counselor eligible for licensure under this act.]~~

[B] A. Supervision received after July 1, 1994, must be provided by a licensed individual as defined: For licensure as a professional mental health counselor, the supervision must be provided by a licensed professional clinical mental health counselor, licensed professional mental health counselor, licensed professional art therapist, licensed psychiatrist, licensed psychologist, licensed independent social worker, or licensed marriage and family therapist.

B. Effective July 1, 2003, for licensure as a professional mental health counselor (LPC) to perform diagnoses must be provided by a licensed clinical supervisor as defined: the supervision must be provided by a licensed professional clinical mental health counselor, licensed marriage and family therapist, licensed professional art therapists, licensed psychiatrist, licensed clinical psychologist, clinical nurse specialist in psychiatry or licensed independent social worker with two years of mental health and supervised clinical experience.

C. It is the responsibility of the individual seeking supervision to assure the supervision is acceptable for the level of licensure that will be requested at the completion of the required supervision. The relationship between the supervisor and the applicant must promote the development of skill and responsibility in the delivery of counseling or therapy services.

D. Client contact and supervision hours prior to being licensed will not be applicable for licensure.

[16.27.8.8 NMAC - Rp 16 NMAC 27.1.7.5, 6-15-01; A, 7-1-04]

16.27.8.9 APPLICANTS FOR LICENSURE: As a professional counselor (LPC) must possess the following qualifications and provide the required documentation with the application:

A. Age requirement. Be at least 21 years of age.

B. ~~[Applicant must be of good moral character, with conduct consistent with the Code of Ethics.]~~ Code of ethics statement: Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics.

C. Education requirements. ~~[Holds a master's or doctoral degree in counseling or has fulfilled the required 33 semester hours or 44 quarter hours and semester hours or 12 quarter hours of practicum. (Total 42 semester graduate hours or 56 quarter hours)]~~ Holds either:

(1) a master's or doctoral degree in counseling from a regionally accredited institution or

(2) has a master's or doctoral degree in a counseling related field and completed a minimum of 33 semester hours or 44-quarter hours and 9 semester hours or 12 quarter hours of practicum. (total 42 semester graduate hours or 56-quarter hours) of the mental health core curriculum from a regionally accredited institution.

D. Experience requirements. Evidence of having participated in a total of at least 1,000 hours of postgraduate client contact under appropriate postgraduate clinical supervision as defined above with at least 100 hours of face-to-face postgraduate supervision.

[16.27.8.9 NMAC - Rp 16 NMAC 27.7.8, 6-15-01; A, 7-1-04]

16.27.8.11 DOCUMENTATION REQUIRED FOR LICENSURE

A. A completed application as specified in Part 3

B. Proof of education and experience:

(1) the applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree; the transcript must be submitted with the application [~~(unopened)~~]; applicants educated in foreign institutions who are unable to submit certified official transcripts shall submit a statement explaining why such transcripts are not available and shall submit certified copies of the degree certificates granted, information on the curricula offered, and any other documentation requested by the board; and

(2) a statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's supervised experience and setting forth the nature and extent of such supervision must be submitted with the application [~~(unopened)~~]; the statement shall verify that the applicant's performance was in accordance with adequate counseling and therapy standards of practice; if a supervisor's statement is not available, the applicant may submit documentation explaining why the supervisor's statement is not available and sworn affidavits from other individuals verifying that supervision took place and describing the nature and the extent of the supervision.

C. Documentation of 1000 postgraduate client contact hours and 100 hours of appropriate postgraduate clinical supervision. Additional documentation of client contact hours must be provided to the board upon request.

D. Documentation of the applicant's licensure, registration or certification status must be submitted on application attachment form A which must be sent directly to the board by the jurisdiction in which the applicant is licensed, certified or registered.

[16.27.8.11 NMAC - Rp 16 NMAC 27.7.10, 6-15-01; A, 7-1-04]

16.27.8.12 LICENSURE BY CREDENTIALS

~~[A. submit a completed application per 16.27.3.8~~

~~B. meet all education, experience, examination and supervision requirements substantially equivalent or exceeding those set forth by New Mexico statute and rule.~~

~~C. Documentation: the applicant's licensure, registration or certification status must be submitted on Application Attachment Form A which must be sent directly to the Board by the jurisdiction in which the applicant is licensed, certified or registered along with an official copy of the applicant's transcripts.]~~

A. A completed application as specified in Part 3.

B. Documentation (attachment A) that the applicant holds a current license issued by the appropriate examining board under the law of any other state or territory of the United States, the District of Columbia or any foreign nation.

C. Documentation: that the applicant is a current registered art therapist, board certified (ATR-BC) by the art therapy credential board.

D. The applicant is required to submit an official transcript in a sealed envelope from each institution con-

~~tributing to the applicant's master or doctoral degree.~~

[16.27.8.12 NMAC - Rp 16 NMAC 27.9.8&9, 6-15-01; A, 7-1-04]

NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.9 NMAC, Sections 8, 9, 10, 11 and 12, effective July 1, 2004

16.27.9.8 SUPERVISION

A. Supervision must be provided by a licensed individual as defined: For entry level licensure as a mental health counselor (LMHC), appropriate supervision may be provided by a licensed psychologist, licensed psychiatrist, licensed independent social worker, licensed professional clinical mental health counselor, licensed professional mental health counselor, licensed marriage and family therapist, or licensed professional art therapist.

~~B. Supervision received after July 1, 2003, for licensure as a mental health counselor (LMHC) to perform diagnoses must be provided by a licensed clinical supervisor as defined: the supervision must be provided by a licensed professional clinical mental health counselor, licensed marriage and family therapists, licensed professional art therapists, licensed psychiatrist, licensed clinical psychologist, clinical nurse specialist in psychiatry or licensed independent social worker with two years of mental health and supervised clinical experience.~~

~~[B.]~~ C. It is the responsibility of the individual seeking supervision to assure the supervision is acceptable for the level of licensure that will be requested at the completion of the required supervision. The relationship between the supervisor and the applicant must promote the development of skill and responsibility in the delivery of counseling or therapy services.

~~[C.]~~ D. Client contact and supervision hours prior to being licensed will not be applicable for licensure. [16.27.9.8 NMAC - N, 6-15-01; A, 7-1-04]

16.27.9.9 LICENSED MENTAL HEALTH COUNSELOR

A. LMHC is intended as a transition between the required degree and the completion of supervised training required for licensure as a professional mental health counselor, a professional clinical mental health counselor, a marriage and family therapist or a professional art therapist. All work must be under appropriate supervision. Applicants must assure that

their education and experience are appropriate for the level of licensure they will seek upon completion of supervised training. There is no time limit ~~[for registration as a registered]~~ as a licensed mental health counselor, but all work at this level must be done under supervision.

B. Qualifications for entry level licensure. An applicant for licensure as an entry-level mental health counselor (LMHC) must possess the following qualifications:

(1) be at least 21 years of age; and
(2) ~~[Applicant must be of good moral character, with conduct consistent with the Code of Ethics.]~~ Code of ethics statement: Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics, and

(3) hold a master's or doctoral degree in counseling or counseling related field from a regionally accredited institution. Related fields are as designated in the following areas: LPC [~~allied mental health field~~] (counseling related field); LPCC [~~allied mental health field~~] (counseling related field); LMFT (focus in marriage and family therapy); and LPAT (counseling related field) as defined in Part 1, and have completed all education requirements in their field of study; and

(4) have arranged for appropriate supervision, including a postgraduate experience plan, which includes one hour of face-to-face supervision for every ten hours of client contact.

[16.27.9.9 NMAC - Rp 16 NMAC 27.8.8, 6-15-01; A, 7-1-04]

16.27.9.10 DOCUMENTATION REQUIRED

A. A completed application as specified in Part 3.

B. The applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree. The transcript must be submitted with the application ~~[(unopened)]~~. Applicants educated in foreign institutions who are unable to submit certified official transcripts shall submit a statement explaining why such transcripts are not available and shall submit certified copies of the degree certificates granted, information on the curricula offered, and any other documentation requested by the board; and

C. A statement from each supervisor in a sealed envelope on a form provided by the board (attachment C) verifying the applicant's has arranged for appropriate supervision, supervised experience and setting forth the nature and extent of such supervision must be submitted with the

~~application, [(unopened)]. The statement shall verify that the applicant's performance was in accordance with adequate counseling and therapy standards of practice. If a supervisor's statement is not available, the applicant may submit documentation explaining why the supervisor's statement is not available and sworn affidavits from other individuals verifying that supervision took place and describing the nature and the extent of the supervision.~~

~~D. Documentation of the applicant's licensure, registration, or certification status must be submitted on Application Attachment Form A, which must be sent directly to the Board by the jurisdiction in which the applicant is licensed, certified, or registered.]~~

[16.27.9.10 NMAC - Rp 16 NMAC 27.8.9, 6-15-01; A, 7-1-04]

16.27.9.11 EXAMINATION: Applicants must demonstrate professional competency by satisfactorily passing ~~[an examination selected and approved by the Board]~~ the national counselors exam (NCE) or (NCC).

[16.27.9.11 NMAC - Rp 16 NMAC 27.8.10, 6-15-01; A, 7-1-04]

16.27.9.12 [LICENSURE BY CREDENTIALS

~~A. submit a completed application per 16.27.3.8.~~

~~B. meet all education, experience, examination and supervision requirements substantially equivalent or exceeding those set forth by New Mexico statute and rule.~~

~~C. Documentation: Documentation of the applicant's licensure, registration, or certification status must be submitted on Application Attachment Form A, which must be sent directly to the Board by the jurisdiction in which the applicant is licensed, certified, or registered and an official copy of the applicant's transcripts.]~~
[Reserved]

[16.27.9.12 NMAC - Rp 16 NMAC 27.9.8&9, 6-15-01; Repealed 7-1-04]

NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.10 NMAC, Sections 8, 9, and 10, effective July 1, 2004. The part name has also been amended.

PART 10 REQUIREMENTS FOR LICENSURE WITH EXAMINATION AS AN ALCOHOL AND DRUG ABUSE COUNSELOR [ON OR AFTER JANUARY 2, 1997] EFFECTIVE JULY

1, 2003.

16.27.10.8 SUPERVISION

~~[A. Prior to January 2, 1998, appropriate supervision for Alcohol and/or Drug Abuse Counselors shall be supervision provided by a certified alcohol and drug counselor, ICRC/CCS, CADAC or an individual eligible for licensure as an alcohol and drug abuse counselor or an alcohol/drug abuse counselor, or individuals with education, training, and experience in substance abuse as outlined in the law and are either a licensed psychologist, licensed psychiatrist, licensed independent social worker, licensed psychiatric nurse, licensed professional clinical mental health counselor, licensed marriage and family therapist, licensed professional art therapist, licensed professional mental health counselor.~~

~~B. —Supervision received after January 2, 1998, for Alcohol and/or Drug Abuse Counselors must be provided by a licensed alcohol and drug abuse counselor who is a credentialed clinical supervisor (CCS), ICRC/CCS, CADAC or licensed alcohol and drug abuse counselor with 6,000 client contact hours and 3 years experience in the field of alcohol/drug abuse counseling, or individuals with education, training and experience in substance abuse as outlined in the law and are either: a licensed psychologist, licensed psychiatrist, licensed independent social worker, licensed professional clinical mental health counselor, licensed marriage and family therapist, licensed professional art therapist, licensed professional mental health counselor.]~~

A. Supervision received after July 1, 2003, for alcohol and/or drug abuse counselors (LADAC) must be provided by a licensed alcohol and drug abuse counselor with three years of alcohol and drug abuse experience acquired after licensure, licensed professional clinical mental health counselor, licensed professional mental health counselor, licensed marriage and family therapist, licensed professional art therapist, licensed psychiatrist, licensed clinical psychologist, clinical nurse specialist in psychiatry or licensed independent social worker with two years of mental health and supervised clinical experience

~~[C.] B.~~ It is the responsibility of the individual seeking supervision to assure the supervision is acceptable for the level of licensure that will be requested at the completion of the required supervision. The relationship between the supervisor and the applicant must promote the development of skill and responsibility in the delivery of counseling or therapy services.

C. —Supervision hours acquired prior to being licensed will not be

applicable for licensure.

[16.27.10.8 NMAC - Rp 16 NMAC 27.1.7.5.3&4, 6-15-01; A, 7-1-04]

16.27.10.9 APPLICANTS FOR LICENSURE: An alcohol and drug abuse counselor (LADAC) must possess the following qualifications and provide the required documentation with the application:

A. Age requirement: Be at least 21 years of age

B. Moral character: Applicant must be of good moral character, with conduct consistent with the code of ethics.

C. Code of ethics statement: Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics, and

~~[C.] D. Examination:~~ Applicant must demonstrate professional competency by satisfactorily passing the [International Certification Examination (ICRC)] national certification examinations for addictions counselors level 1 (NCAC)

~~[D. Code of Ethics Statement: Applicant must sign a statement provided in the application indicating the applicant has read the Code of Ethics and agrees to be bound and governed by the Code of Ethics.]~~

E. Education requirements [(1) Possess a high school diploma or its equivalent, and

(2) (1) Hold an associate degree, [or board approved education and training] that includes 300 hours of approved practicum. The board may approve on a case-by case basis applicants whose education is not in a counseling-related field and a minimum of 276 clock hours in the following areas:

(a) 90 hours in the field of alcohol abuse;

(b) 90 hours in the field of drug abuse;

(c) 90 hours in the field of counseling;

(d) 6 hours that pertain specifically to alcohol and drug counseling ethics training (must be acquired two years prior to submission of an application); or

(e) 300 clock hours of practicum;

~~[(3) (2) Hold a baccalaureate degree in a counseling related [mental health field that includes] field from a regionally accredited institution. The board may approve on a case-by case basis applicants whose education is not in a counseling-related field and including a minimum of 276 clock hours in the following areas:~~

(a) 90 hours in the field of alcohol abuse;

(b) 90 hours in the field of drug abuse;

(c) 90 hours in the field of counseling;

(d) 6 hours that pertain specifically to alcohol and drug counseling ethics training, (must be acquired two years prior to submission of an application);

~~[(4)] (3) Hold a masters degree in a counseling related [mental health field that includes] field from a regionally accredited institution. The board may approve on a case-by case basis applicants whose education is not in a counseling-related field and includes a minimum of 276 clock hours in the following areas:~~

(a) 90 hours in the field of alcohol abuse;

(b) 90 hours in the field of drug abuse;

(c) 90 hours in the field of counseling;

(d) 6 hours that pertain specifically to alcohol and drug counseling ethics training, (must be acquired two years prior to submission of an application).

F. Experience requirements.

(1) an associate degree ~~[or Board approved education and training]~~ requires a minimum of four years of alcohol and drug abuse counseling under appropriate supervision ~~[which may be acquired during any time period];~~ a year is defined as 12 months during which the applicant can show evidence ~~[of a minimum of 500 hours of client contact under direct observation in the area]~~ of alcohol and drug abuse counseling by appropriate supervision; or

(2) a baccalaureate degree requires a minimum of three years of alcohol and drug abuse counseling under appropriate supervision ~~[which may be acquired during any time period];~~ a year is defined as 12 months during which the applicant can show evidence ~~[of a minimum of 500 hours of client contact under direct observation in the area]~~ of alcohol and drug abuse counseling by appropriate supervision; or

(3) a masters degree requires a minimum of two years of alcohol and drug abuse counseling under appropriate supervision ~~[which may be acquired during any time period];~~ a year is defined as 12 months during which the applicant can show evidence of ~~[a minimum of 500 hours of client contact under direct observation in the area of]~~ alcohol and drug abuse counseling by appropriate supervision.

G. Documentation required for licensure.

(1) a completed application as specified in Part 3 and

(2) proof of completed education and experience requirements:

(a) the applicant is required to

submit an official transcript in a sealed envelope from each institution contributing to the applicant's associate, baccalaureate, masters degree; the transcript must be submitted with the application (unopened); applicants educated in foreign institutions who are unable to submit certified official transcripts shall submit a statement explaining why such transcripts are not available and shall submit certified copies of the degree certificates granted, information on the curricula offered, and any other documentation requested by the board; and/or

(b) verification of 300 hours of practicum from applicants with an associate degree ~~[or board approved program];~~

(c) documentation of required drug, ~~and~~ alcohol, counseling, and ethics training (attachment D) shall include:

(i) official transcripts from the college or university, or

(ii) the date, course title, course description, number of hours attended and certificate of attendance, and

(d) ~~[Verification of alcohol and drug abuse counseling for the specified years utilizing Attachment B, signed by an appropriate supervisor]~~ a statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's supervised experience and setting forth the nature and extend of such supervision must be submitted with the application; the statement shall verify that the applicant's performance was in accordance with adequate counseling standards of alcohol and drug practice; if a supervisor's statement is not available, the applicant may submit documentation explaining why the supervisor's statement is not available and sworn affidavits from other individuals verifying that supervision took place and describing the nature and the extent of the supervision, and

(3) two letters of recommendation

(a) provide ~~[two letters]~~ one letter from ~~[professionals]~~ supervisor attesting to good moral character and competency of the applicant, and

(b) one letter from ~~[an outside agency]~~ a current employer attesting to the professionalism of the applicant; letters must be in a sealed envelope and submitted with the application.

(4) Signed code of ethics statement: applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics, and

(5) documentation of the applicant's licensure, registration or certification status must be submitted on application attachment form A which must be sent directly to the board by the jurisdiction in which the applicant is licensed, certified or

registered.

[16.27.10.9 NMAC - Rp 16 NMAC 27.21.8, 6-15-01; A, 7-1-04]

16.27.10.10 LICENSURE BY CREDENTIALS

~~A. [submit a completed application per 16.27.3.8.~~

~~B. meet all education, experience, examination and supervision requirements substantially equivalent or exceeding those set forth by New Mexico statute and rule.~~

~~C. Documentation: Documentation of the applicant's licensure, registration or certification status must be submitted on application attachment from A, which must be sent directly to the board by the jurisdiction in which the applicant is licensed, certified, or registered and an official copy of the applicant's transcripts.]~~

~~A. A completed application as specified in Part 3.~~

~~B. Documentation (attachment A) that the applicant holds a current license issued by the appropriate examining board under the law of any other state or territory of the United States, the District of Columbia or any foreign nation.~~

~~C. Documentation: that the applicant has taken and passed the national certification examination for addiction counselors - level 1.~~

~~D. The application is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree.~~

[16.27.10.10 NMAC - Rp 16 NMAC 27.9.8&9, 6-15-01; A, 7-1-04]

NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.11 NMAC, Sections 8, 9 and 10, effective July 1, 2004. The Part name has been amended. Corrected numbering error.

PART 11 REQUIREMENTS FOR LICENSURE WITH EXAMINATION AS AN ALCOHOL AND DRUG ABUSE COUNSELOR Effective July 1, [2003] 2005

16.27.11.8 SUPERVISION

~~[A. Prior to January 2, 1998, appropriate supervision for Alcohol and/or Drug Abuse Counselors shall be supervision provided by a certified alcohol and drug counselor, ICRC/CCS, CADAC or an individual eligible for licensure as an alcohol and drug abuse counselor or an~~

~~alcohol/drug abuse counselor, or individuals with education, training and experience in substance abuse as outlined in the law and are either a licensed psychologist, licensed psychiatrist, licensed independent social worker, licensed psychiatric nurse, licensed professional clinical mental health counselor, licensed marriage and family therapist, licensed professional art therapist, licensed professional mental health counselor.~~

~~B. Supervision received after January 2, 1998, for Alcohol and/or Drug Abuse Counselors must be provided by a licensed alcohol and drug abuse counselor who is a credentialed clinical supervisor (CCS), ICRC/CCS, CADAC or licensed alcohol and drug abuse counselor with 6,000 client contact hours and 3 years experience in the field of alcohol/drug abuse counseling, or individuals with education, training and experience in substance abuse as outlined in the law and are either: a licensed psychologist, licensed psychiatrist, licensed independent social worker, licensed professional clinical mental health counselor, licensed marriage and family therapist, licensed professional art therapist, licensed professional mental health counselor.]~~

A. Supervision received effective July 1, 2003, for alcohol and/or drug abuse counselors must be provided by a licensed professional clinical mental health counselor, licensed professional mental health counselor, licensed marriage and family therapist, licensed professional art therapist, licensed psychiatrist, licensed clinical psychologist, licensed alcohol and drug abuse counselor with three years of alcohol and drug abuse experience acquired after licensure, clinical nurse specialist in psychiatry or licensed independent social worker with two years of mental health and supervised clinical experience.

~~[C.]~~ (B.) It is the responsibility of the individual seeking supervision to assure the supervision is acceptable for the level of licensure that will be requested at the completion of the required supervision. The relationship between the supervisor and the applicant must promote the development of skill and responsibility in the delivery of counseling or therapy services.

D. Client contact and supervision hours acquired prior to being licensed will not be applicable for licensure. [16.27.11.8 NMAC - Rp 16 NMAC 27.1.7.5.3&4, 6-15-01; A, 7-1-04]

~~[16.27.26.9]~~ 16.27.11.9 **A P P L I - CANTS FOR LICENSURE:** An alcohol and drug abuse counselor (LADAC) must possess the following qualifications and provide the required documentation with the application.

A. Age requirement: Be at least 21 years of age.

~~B. [Moral Character: Applicant must be of good moral character, with conduct consistent with the Code of Ethics.]~~ Code of ethics statement: Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics.

C. Examination: Applicant must demonstrate professional competency by satisfactorily passing the ~~[International Certification Examination (ICRC)]~~ national certification examination for addiction counselors - level I.

~~D. Code of Ethics Statement: Applicant must sign a statement provided in the application indicating the applicant has read the Code of Ethics and agrees to be bound and governed by the Code of Ethics.]~~

~~E.]~~ D. Education Requirements

(1) Hold a baccalaureate degree in a counseling related ~~[mental health field that includes]~~ field from a regionally accredited institution. The board may approve on a case-by case basis applicants whose education is not in a counseling-related field and a minimum of 276 clock hours in the following areas:

(a) 90 hours in the field of alcohol abuse;

(b) 90 hours in the field of drug abuse;

(c) 90 hours in the field of counseling;

(d) 6 hours that pertain specifically to alcohol and drug counseling ethics training, (must be acquired two years prior to submission of an application); ~~and~~

~~(e) 300 clock hours of practicum in the 12 core functions, to include 15 hours in each of the following areas: screening, intake, orientation, assessment, treatment planning, counseling, case management, crisis intervention, client education, referral, report and record keeping, and consultation with other professionals.]~~

(2) Hold a master's degree in a counseling related ~~[mental health field that includes]~~ field from a regionally accredited institution. The board may approve on a case-by case basis applicants whose education is not in a counseling-related field and includes a minimum of 276 clock hours in the following areas:

(a) 90 hours in the field of alcohol abuse;

(b) 90 hours in the field of drug abuse;

(c) 90 hours in the field of counseling;

(d) 6 hours that pertain specifically to alcohol and drug counseling ethics

training, (must be acquired two years prior to submission of an application); and

~~[(e) 300 clock hours of practicum in the 12 core functions to include 15 hours in each of the following: screening, intake, orientation, assessment, treatment planning, counseling, case management, crisis intervention, client education, referral, report and record keeping and consultation with other professionals.]~~

F. Experience requirements.

(1) A baccalaureate degree requires a minimum of ~~[three thousand]~~ two years and two thousand client contact hours of alcohol and drug abuse counseling ~~[with in the last fifteen years]~~ and one hundred hours of face-to-face supervision under appropriate supervision, or

(2) A masters degree requires a minimum of ~~[two thousand]~~ one year and one thousand client contact hours of alcohol and drug abuse counseling ~~[within the last five years]~~ and fifty hours of face-to-face supervision under appropriate supervision

G. Documentation required for licensure.

(1) a completed application as specified in Part 3, and

(2) proof of completed education and experience requirements:

(a) the applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's baccalaureate, masters degree; the official transcript must be submitted with the application ~~(unopened)~~; applicants educated in foreign institutions who are unable to submit certified official transcripts shall submit a statement explaining why such transcripts are not available and shall submit certified copies of the degree certificates granted, information on the curricula offered, and any other documentation requested by the board; and/or

(b) documentation of required drug, ~~and~~ alcohol, counseling and ethics training (attachment D) shall include:

(i) transcripts from the college or university, or

(ii) the date, course title, course description, number of hours attended and certificate of attendance, and

(c) ~~[Verification of alcohol and drug abuse counseling for the specified years utilizing Attachment B, signed by an appropriate supervisor,]~~ a statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's supervised experience and setting forth the nature and extend of such supervision must be submitted with the application (unopened); the statement shall verify that the applicant's performance was in accordance with adequate counseling standards of alcohol and drug practice; if a

supervisor's statement is not available, the applicant may submit documentation explaining why the supervisor's statement is not available and sworn affidavits from other individuals verifying that supervision took place and describing the nature and the extent of supervision, and

(3) letters of recommendation

(a) provide ~~[two letters]~~ one letter from ~~[professionals]~~ current supervisor attesting to good moral character and competency of the applicant, and

(b) provide one letters from current employer attesting to good moral character and competency of the applicant, and

~~[(b)]~~ (c) one letter from ~~[an outside agency]~~ a professional substance abuse colleague attesting to the professionalism of the applicant; letters must be in a sealed envelope and submitted with the application.

(4) signed code of ethics statement: applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics, and

(5) documentation of the applicant's licensure, registration, or certification status must be submitted on attachment form A, which must be sent directly to the board by the jurisdiction in which the applicant is licensed, certified or registered.

[16.27.11.8 NMAC - Rp 16 NMAC 27.26.8, 6-15-01; A, 7-1-04]

~~[16.27.11.9]~~ 16.27.11.10 LICENSURE BY CREDENTIALS

~~A. submit a completed application per Part 16.27.3.8~~

~~B. meet all education, experience, examination and supervision requirements substantially equivalent or exceeding those set forth by New Mexico statute and rule.~~

~~C. Documentation: Documentation of the applicant's licensure, registration or certification status must be submitted on Application Attachment Form A, which must be sent directly to the Board by the jurisdiction in which the applicant is licensed, certified or registered, and an official copy of the applicant's transcripts]~~

~~A. A completed application as specified in Part 3.~~

~~B. Documentation (attachment A) that the applicant holds a current license issued by the appropriate examining board under the law of any other state or territory of the United States, the District of Columbia or any foreign nation.~~

~~C. Documentation: that the applicant has taken and passed the national certification examination for addiction counselors - level I.~~

~~D. The applicant is~~

required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree.

[16.27.11.10 NMAC - Rn & A, 16.27.11.9 NMAC; 7-1-04]

NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.12 NMAC, Sections 2, 6, 8, 9 & 10, effective July 1, 2004. Part name amended. Correct numbering error.

PART 12 REQUIREMENTS FOR LICENSURE AS A SUBSTANCE ABUSE ~~[INTERN]~~ TRAINEE effective July 1, 2003

16.27.12.2 SCOPE: All individuals applying for licensure as a substance abuse ~~[intern]~~ trainee.

[16.27.12.2 NMAC - Rp 16 NMAC 27.24.2, 6-15-01; A, 7-1-04]

16.27.12.6 OBJECTIVE: The objective of Part 12 is to state the minimum requirements for licensure as a substance abuse ~~[intern]~~ trainee and list the documentation required for application.

[16.27.12.6 NMAC- Rp 16 NMAC 27.24.6, 6-15-01; A, 7-1-04]

16.27.12.8 SUPERVISION

~~[A.] Prior to January 2, 1998, appropriate supervision for Alcohol and/or Drug Abuse Counselors shall be supervision provided by a certified alcohol and drug counselor, ICRC/CCS, CADAC or an individual eligible for licensure as an alcohol and drug abuse counselor or an alcohol/drug abuse counselor, or individuals with education, training and experience in substance abuse as outlined in the law and are either a licensed psychologist, licensed psychiatrist, licensed independent social worker, licensed psychiatric nurse, licensed professional clinical mental health counselor, licensed marriage and family therapist, licensed professional art therapist, licensed professional mental health counselor.~~

B. Supervision received after January 2, 1998, for Alcohol and/or Drug Abuse Counselors must be provided by a licensed alcohol and drug abuse counselor who is a credentialed clinical supervisor (CCS), ICRC/CCS, CADAC or licensed alcohol and drug abuse counselor with 6,000 client contact hours and 3 years experience in the field of alcohol/drug abuse

~~counseling, or individuals with education, training and experience in substance abuse as outlined in the law and are either: a licensed psychologist, licensed psychiatrist, licensed clinical social worker, licensed professional clinical mental health counselor, licensed marriage and family therapist, licensed professional art therapist, licensed professional mental health counselor.]~~

A. Supervision received effective July 1, 2003, for substance abuse trainee must be provided by a licensed professional clinical mental health counselor, licensed professional mental health counselor, licensed marriage and family therapist, licensed professional art therapists, licensed psychiatrist, licensed clinical psychologist, clinical nurse specialist in psychiatry or licensed independent social worker.

~~[C.] B.~~ It is the responsibility of the individual seeking supervision to assure the supervision is acceptable for the level of licensure that will be requested at the completion of the required supervision. The relationship between the supervisor and the applicant must promote the development of skill and responsibility in the delivery of counseling or therapy services.

[16.27.12.8 NMAC - Rp 16 NMAC 27.1.7.5.3&4, 6-15-01; A, 7-1-04]

16.27.12.9 APPLICANTS FOR LICENSURE: A substance abuse ~~[intern]~~ ~~(LSAT)~~ trainee (LSAT) must possess the following qualifications and provide the required documentation with the application.

A. Age requirement: Be at least 21 years of age.

~~[B.] Moral Character:~~ Applicant must be of good moral character, with conduct consistent with the Code of Ethics, and]

~~[C.] B.~~ Code of ethics statement: Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics; and

~~[D.] C.~~ Education requirements: Possess a high school diploma or equivalent; and

~~[E.] D.~~ Supervisory requirements: Applicant must have arranged for appropriate supervision, including an experience plan; and

~~[F.] E.~~ Demonstrates knowledge of a working definition of substance abuse treatment by having acquired a minimum of 90 clock hours of the required education and training (defined in Part 1, section 16.27.1.7 G in the fields of alcohol and/or drug abuse; and

~~[G.] F.~~ provides three letters of recommendation;

~~[H.] G.~~ documentation required for licensure;

(1) a completed application as specified in Part 3; and

(2) proof of completed education requirements: the applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's high school graduation, associate, baccalaureate, masters or doctoral degree; the official transcript must be submitted with the application ~~[(unopened)]~~; applicants educated in foreign institutions who are unable to submit certified official transcripts shall submit a statement explaining why such transcripts are not available and shall submit certified copies of the degree certificates granted, information on the curricula offered, and any other documentation requested by the board; and

(3) verification on attachment D that 90 clock hours of education and training in the fields of alcohol and/or drug abuse has been completed to document knowledge of a working definition of substance abuse, and

(4) verification on attachment C that a supervisor has been obtained and an experience plan has been established and a signed statement is provided by the supervisor indicating the ~~[intern]~~ trainee shall only participate in counseling sessions ~~[during direct observation by supervisor]~~ under appropriate supervision, and

~~[(5) Signed Code of Ethics statement, and~~

~~[(6) (5) letters of recommendation~~
(a) provide two letters from professionals attesting to good moral character and competency of the applicant, and

(b) one letter from an outside agency attesting to the professionalism of the applicant; letters must be in a sealed envelope and submitted with the application.

~~[(7) (6) documentation of the applicant's licensure, registration or certification status must be submitted on application attachment form A which must be sent directly to the board by the jurisdiction in which the applicant is licensed, certified or registered.~~

[16.27.12.9 NMAC - Rp 16 NMAC 27.24.8, 6-15-01; A, 7-1-04]

~~[16.27.12.9] 16.27.12.10 [LICEN-~~ ~~SURE BY CREDENTIALS~~

~~A.~~ submit a completed application per 16.27.3.8.

~~B.~~ meet all education, experience, examination and supervision requirements substantially equivalent or exceeding those set forth by New Mexico statute and rule.

C. Documentation:

Documentation of the applicant's licensure, registration or certification status must be submitted on Application Attachment Form A which must be sent directly to the Board by the jurisdiction in which the applicant is licensed, certified or registered and an official copy of the applicant's transcripts.]
[Reserved]

[16.27.12.10 NMAC - Rn, 16.27.12.9 NMAC, 7-1-04; Repealed 7-1-04]

NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.13 NMAC, Sections 2, 6, 8, 9, and 10, effective July 1, 2004. Part name amended.

PART 13 REQUIREMENTS FOR LICENSURE AS A SUBSTANCE ABUSE ~~[INTERN]~~ TRAINEE Effective July 1, ~~[2003]~~ 2005

16.27.13.2 SCOPE: All individuals applying for licensure as a substance abuse ~~[intern]~~ trainee.

[16.27.13.2 NMAC - Rp 16 NMAC 27.27.2, 6-15-01; A, 7-1-04]

16.27.13.6 OBJECTIVE: The objective of Part 13 is to state the minimum requirements for licensure as a substance abuse ~~[intern]~~ trainee and list the documentation required for application effective July 1, ~~[2003]~~ 2005.

[16.27.13.6 NMAC - Rp 16 NMAC 27.27.6, 6-15-01; A, 7-1-04]

16.27.13.8 SUPERVISION

~~[A. Prior to January 2, 1998, appropriate supervision for Alcohol and/or Drug Abuse Counselors shall be supervision provided by a certified alcohol and drug counselor, ICRC/CCS, CADAC or an individual eligible for licensure as an alcohol and drug abuse counselor or an alcohol/drug abuse counselor, or individuals with education, training and experience in substance abuse as outlined in the law and are either a licensed psychologist, licensed psychiatrist, licensed independent social worker, licensed psychiatric nurse, licensed professional clinical mental health counselor, licensed marriage and family therapist, licensed professional art therapist, licensed professional mental health counselor.~~

B. Supervision received after January 2, 1998, for Alcohol and/or Drug Abuse Counselors must be provided by a licensed alcohol and drug abuse counselor who is a credentialed clinical supervisor (CCS), ICRC/CCS, CADAC or licensed

~~alcohol and drug abuse counselor with 6,000 client contact hours and 3 years experience in the field of alcohol/drug abuse counseling, or individuals with education, training, and experience in substance abuse as outlined in the law and are either: a licensed psychologist, licensed psychiatrist, licensed clinical social worker, licensed professional clinical mental health counselor, licensed marriage and family therapist, licensed professional art therapist, licensed professional mental health counselor.]~~

A. Supervision received effective July 1, 2003, for substance abuse trainee must be provided by a licensed professional clinical mental health counselor, licensed professional mental health counselor, licensed marriage and family therapist, licensed professional art therapist, licensed psychiatrist, licensed clinical psychologist, licensed alcohol and drug abuse counselor with three years of alcohol and drug abuse experience acquired after licensure, clinical nurse specialist in psychiatry or licensed independent social worker with two years of mental health and supervised clinical experience:

~~[E.] B.~~ It is the responsibility of the individual seeking supervision to assure the supervision is acceptable for the level of licensure that will be requested at the completion of the required supervision. The relationship between the supervisor and the applicant must promote the development of skill and responsibility in the delivery of counseling or therapy services.

[16.27.13.8 NMAC - Rp 16 NMAC 27.1.7.5.3&4, 6-15-01; A, 7-1-04]

16.27.13.9 APPLICANTS FOR LICENSURE: A substance abuse ~~[intern]~~ (LSAH) trainee (LSAT) must possess the following qualifications and provide the required documentation with the application.

A. Age requirement: Be at least 21 years of age.

~~[B. Moral Character: Applicant must be of good moral character, with conduct consistent with the Code of Ethics, and]~~

~~[C.] B.~~ Code of ethics statement: Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics, and

~~[D.] C.~~ Supervisory requirements: Applicant must have arranged for appropriate supervision, including an experience plan, and

~~[E.] D.~~ Hold an associate degree, ~~[and board approved]~~ in a counseling-related field from a regionally accredited institution and education and training

that includes at a minimum of 90 clock hours of education and training in the areas of alcohol, drug, and counseling. The board may approve on a case-by-case basis applicants whose education is not in a counseling-related field.

~~[F.] E.~~ provides ~~[three]~~ two letters of recommendation

~~[G.] E.~~ Documentation required for licensure.

(1) A completed application as specified in Part 3.8, and

(2) Proof of completed education requirements. The applicant is required to submit an official transcript in a sealed envelope from each institution ~~[contributing to the applicant's high school graduation,]~~ associate, baccalaureate, masters or doctoral degree. The transcript must be submitted with the application (unopened). Applicants educated in foreign institutions who are unable to submit certified official transcripts shall submit a statement explaining why such transcripts are not available and shall submit certified copies of the degree certificates granted, information on the curricula offered, and any other documentation requested by the board; and

(3) Verification of associates degree in a counseling-related field and that 90 clock hours of education and training in the fields of alcohol and/or drug abuse has been completed to document knowledge of a working definition of substance abuse, and

(4) Verification on attachment C that ~~[a]~~ an appropriate supervisor has been obtained and an experience plan has been established and a signed statement is provided by the supervisor indicating the ~~[intern]~~ trainee shall only participate in alcohol and drug abuse counseling sessions, ~~[during direct observation by supervisor,]~~ and

~~[(5) Signed Code of Ethics statement, and]~~

~~[(6)] (5)~~ Letters of recommendation: Letters must be in a sealed envelope and submitted with the application.

(a) provide ~~[two letters from professionals, one from a current supervisor and one from a current employer]~~ one letter from a current supervisor attesting to good moral character and competency of the applicant, and

(b) one letter from ~~[an outside agency attesting to the professionalism]~~ a professional substance abuse colleague attesting to good moral character and competency of the applicant.

~~[(7) Documentation of the applicant's licensure, registration or certification status must be submitted on Attachment Form A which must be sent directly to the Board by the jurisdiction in which the applicant is licensed, certified or registered.]~~

[16.27.13.9 NMAC - Rp 16 NMAC 27.27.8, 6-15-01; A, 7-1-04]

16.27.13.10 ~~LICENSURE BY CREDENTIALS~~

A. ~~submit a completed application per 16.27.3.8.~~

B. ~~meet all education, experience, examination and supervision requirements substantially equivalent or exceeding those set forth by New Mexico statute and rule.~~

C. ~~Documentation: Documentation of the applicant's licensure, registration, or certification status must be submitted on Application Attachment Form A, which must be sent directly to the Board by the jurisdiction in which the applicant is licensed, certified, or registered and an official copy of the applicant's transcripts.~~

[Reserved]

[16.27.13.9 NMAC - Rp 16 NMAC 27.9.8&9, 6-15-01; Repealed 7-1-04]

**NEW MEXICO
COUNSELING AND
THERAPY PRACTICE
BOARD**

This is an amendment to 16.27.14 NMAC, Sections 2 and 8, effective July 1, 2004

16.27.14.2 **SCOPE:** All individuals approved for examinations for licensure as professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health counselors, licensed mental health counselors, and alcohol and drug abuse counselors [~~Alcohol Abuse Counselors, Drug Abuse Counselors, and Substance Abuse Interns~~].

[16.27.14.2 NMAC - Rp 16 NMAC 27.15.2, 6-15-01; A, 7-1-04]

16.27.14.8 **TEMPORARY LICENSES:** Will grant to individuals meeting all requirements except the prescribed examination. The temporary license will be valid no more than ~~thirty~~ sixty days after the results of the next examination become available. The temporary license of an individual shall automatically expire upon failure to take or to pass the required examination and cannot be reissued. Individuals practicing under a temporary license must not supervise.

[16.27.14.8 NMAC - Rp 16 NMAC 27.15.8, 6-15-01; A, 7-1-04]

**NEW MEXICO
COUNSELING AND
THERAPY PRACTICE
BOARD**

This is an amendment to 16.27.15 NMAC, Sections 2, 8, 9, 10, 11, 13, 14 and 16, effective July 1, 2004

16.27.15.2 **SCOPE:** All examination candidates for licensure as professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health counselors, licensed mental health counselors, and alcohol and drug abuse counselors [~~Alcohol Abuse Counselors, and Drug Abuse Counselors~~].

[16.27.15.2 NMAC- Rp 16 NMAC 27.12.2, 6-15-01; A, 7-1-04]

16.27.15.8 **EXAMINATION CANDIDATES:** Each applicant who has completed the educational and supervision requirements for licensure as a professional clinical mental health counselor, professional marriage and family therapist, professional art therapist, professional mental health counselor, mental health counselor, and alcohol and drug abuse counselor, [~~alcohol abuse counselor, and drug abuse counselor~~] shall be required to pass ~~the~~ the board approved ~~examination~~ examination(s).

[16.27.15.8 NMAC- Rp 16 NMAC 27.12.8, 6-15-01; A, 7-1-04]

16.27.15.9 **APPLICATION FOR EXAMINATION:** Complete applications for licensure must be ~~received~~ approved by the board no later than 90 days prior to the date on which the examination is offered.

[16.27.15.9 NMAC- Rp 16 NMAC 27.12.9, 6-15-01; A, 7-1-04]

16.27.15.10 **REGISTRATION FOR EXAMINATION:** Upon approval to sit for examination the individual will be informed of requirements to register for the examination. The applicant must register for the examination for the exam ~~30~~ 60 days prior to the examination date.

[16.27.15.10 NMAC- Rp 16 NMAC 27.12.10, 6-15-01; A, 7-1-04]

16.27.15.11 **EXAMINATION FEE:** The examination fee is to be paid within a minimum of 30 days prior to examination date. An individual who fails the examination must pay the examination fee if he/she is to retake the examination.

[16.27.15.11 NMAC- Rp 16 NMAC 27.12.11, 6-15-01; A, 7-1-04]

16.27.15.13 **EXAMINATION SPECIFICS:** Individuals will be informed of examination specifics, such as location and time of the examination, upon registration.

A. Individuals who arrive late will be admitted. However, additional time will not be granted.

B. Individuals who have previously taken the approved ~~examination~~ examinations for licensure ~~within five years of application~~ will not be required to test.

[16.27.15.13 NMAC- Rp 16 NMAC 27.12.13, 6-15-01; A, 7-1-04]

16.27.15.14 **REPEATED EXAMINATIONS:**

A. Qualified applicants who fail to obtain the minimum required passing score for an exam must surrender their temporary license immediately. An applicant is eligible to sit for the next exam without incurring further application fees; however, applicant is responsible for all new exam related fees. Applicants must pay the examination fee for each scheduled examination.

B. Applicants who cannot sit for the examinations due to circumstances beyond their control must submit a written request 30 days prior to the scheduled examination. Extenuating circumstances include illness, death in immediate family, military service, or other severe circumstances which do not allow an applicant to attend the scheduled examination. Applicant must provide documentation of extenuating circumstances.

C. Applicants who fail the examinations or fails to sit for scheduled examinations without prior notification must ~~reapply as a new applicant.~~ submit a new application, including the application fee, and all documentation.

[16.27.15.14 NMAC- Rp 16 NMAC 27.12.14, 6-15-01; A, 7-1-04]

16.27.15.16 **NOTIFICATION:** The board office will notify the applicant of the results of the examination in writing of their final score within ~~30~~ 60 days of receipt of examination results from the examining organization. Score results will not be given orally.

[16.27.15.16 NMAC- Rp 16 NMAC 27.12.16, 6-15-01; A, 7-1-04]

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selors, and licensed mental health counselors, alcohol and drug abuse counselors, alcohol abuse counselors, drug abuse counselors, and substance abuse ~~[interns]~~ trainees.

[16.27.16.2 NMAC- Rp 16 NMAC 27.11.2, 6-15-01; A, 7-1-04]

16.27.16.9 ACCEPTABLE CONTINUING EDUCATION COURSES:

A. The board will accept for continuing education credit only those courses, which are relevant to counseling and psychotherapy and are presented at a post baccalaureate level or is

B. approved by certifying groups such as the national board for certified counselors, American marriage and family therapy regulatory board, American art therapy, association international certification reciprocity consortium, national association of alcohol and drug abuse council;

C. approved by other regulatory boards of related mental health or substance abuse fields, including psychiatry, psychology and social work;

D. sponsored by international, national, regional or state mental health professional associations including psychiatry, psychology and social work, or state and federal divisions of substance abuse; or

E. publication of professional writings and presenting board approved educational courses shall be awarded in a manner consistent with Part 16, section 16.27.16.8 and shall not exceed 20 hours for a license renewal period;

F. approved by the New Mexico counseling and therapy practice board;

G. internet continuing education correspondence shall not exceed 12 hours for a license renewal period;

H. home studies continuing education shall not exceed 12 hours for a license renewal period.

[16.27.16.9 NMAC- Rp 16 NMAC 27.11.9, 6-15-01; A, 7-1-04]

**NEW MEXICO
COUNSELING AND
THERAPY PRACTICE
BOARD**

This is an amendment to 16.27.16 NMAC, Sections 2, 9 and 11, effective July 1, 2004

16.27.16.2 SCOPE: All professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health counselors, and registered mental health counselors, registered independent coun-

16.27.16.11 FAILURE TO MEET CONTINUING EDUCATION REQUIREMENTS:

The board will refuse to renew the licensee's license in accordance with the Uniform Licensing Act NMSA 1978 sections 61-1-1 through 61-1-31. If continuing education units requirements are not completed within the licensing period and by the expiration date, the licensee or registrant will be considered expired and will refrain from practicing. Individuals unable to meet continuing education requirements due to circumstances beyond their control must submit a written request for a waiver sixty (60) days prior to

their renewal date. Extenuating circumstances include illness, death in immediate family, military service, or other severe circumstances which do not allow an applicant to meet continuing education requirements. [16.27.16.11 NMAC- Rp 16 NMAC 27.11.11, 6-15-01; A, 7-1-04]

NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.17 NMAC, Sections 2, 9, 10, 15 and 16, effective July 1, 2004

16.27.17.2 SCOPE: All applicants applying for licensure as professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health counselors, [~~Registered or~~] licensed mental health counselors, alcohol and drug abuse counselors, [~~Alcohol Abuse Counselors, Drug Abuse Counselors,~~] and substance abuse [~~Counselors~~] trainees. [16.27.17.2 NMAC- Rp 16 NMAC 27.10.2, 6-15-01; A, 7-1-04]

16.27.17.9 INITIAL LICENSE FEE: Individuals accepted for licensure shall pay an initial licensure fee. This fee is based on the biennial cost of the license and must be paid in full before a license can be issued and is non-refundable.

A. Fee for initial licensure as a entry level mental health counselor is \$75 for the biennial period. This fee must be paid in full before a license can be issued and is non-refundable.

B. Fee for initial licensure as a professional mental health counselor is \$150 for the biennial period. This fee must be paid in full before a license can be issued and is non-refundable.

C. Fee for initial licensure as a clinical mental health counselor, a marriage and family therapist or an art therapist is \$220 for the biennial period. This fee must be paid in full before a license can be issued and is non-refundable.

D. Fee for initial licensure as an alcohol and drug abuse counselor, alcohol abuse counselor, drug abuse counselor is \$150 for the biennial period. This fee must be paid in full before a license can be issued and is non-refundable.

E. Fee for initial licensure as a substance abuse [~~intern~~] trainee is \$75 for the biennial period. This fee must be paid in full before a license can be issued and is non-refundable. [16.27.17.9 NMAC - Rp 16 NMAC 27.10.9, 6-15-01; A, 7-1-04]

16.27.17.10 RENEWAL FEES: Effective October 1, 2000, the fees are as listed below and are non-refundable:

- A. licensed or registered mental health counselor, \$75.00;
- B. registered independent mental health counselor, \$150.00;
- C. professional mental health counselor, \$150.00;
- D. clinical mental health counselor, \$220.00;
- E. marriage and family therapist, \$220.00;
- F. professional art therapist, \$220.00;
- G. alcohol and drug abuse counselor, \$150.00;
- H. alcohol abuse counselor, \$150.00;
- I. drug abuse counselor, \$150.00;
- J. substance abuse [~~intern~~] trainee, \$75.00.

[16.27.17.10 NMAC- Rp 16 NMAC 27.10.10, 6-15-01; A, 7-1-04]

16.27.17.15 REINSTATEMENT FEE: A license or registration that is not renewed within 90 days of expiration is automatically suspended. A license or registration that has been suspended for non-renewal may be reinstated if the renewal application is received within ninety (90) days of the automatic suspension and upon payment of a reinstatement fee of \$100 which is non-refundable, in addition to the unpaid renewal fee, late fee, and compliance with all renewal requirements. A license that is not renewed within one hundred and eighty (180) days of expiration is automatically [~~revoked~~] expired. [16.27.17.15 NMAC - Rp 16 NMAC 27.10.15, 6-15-01; A, 7-1-04]

16.27.17.16 ADMINISTRATIVE FEES: The board will charge the following administrative fees which are non-refundable:

- A. \$.25 (twenty five cents) per page for copies;
- B. \$10.00 (ten dollars) for written license verification;
- C. [~~\$150.00 (one hundred fifty dollars)~~] \$250.00 (two hundred fifty dollars) for address labels of New Mexico licensed counselors and therapists;
- D. [~~\$100.00 (one hundred dollars)~~] \$150 (one hundred fifty dollars) for an address list of New Mexico licensed counselors and therapists;
- E. \$300.00 (three hundred dollars) for electronic list of New Mexico licensed counselors and therapists;

[~~F~~] F. fee for translating services required for foreign transcripts;

[~~F~~] G. \$25.00 (twenty-five dollars) charge for returned checks;

H. \$75.00 (seventy-five dollars) for pre-approved continuing education provider number;

I. \$20.00 (twenty dollars) administrative NCAC examination fees;

J. \$25.00 (twenty-five dollars) administrative NCE, NCMHCE, marriage and family therapist, art therapist examinations fees.

[16.27.17.16 NMAC - Rp 16 NMAC 27.10.16, 6-15-01; A, 7-1-04]

NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.18 NMAC, Sections 2, 6, 8, 9 and 16, effective July 1, 2004

16.27.18.2 SCOPE: All professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health counselors, registered independent mental health counselors, registered mental health counselors, licensed mental health counselors, alcohol and drug abuse counselors, alcohol abuse counselors, drug abuse counselors, and substance abuse [~~Interns~~] trainees.

[16.27.18.2 NMAC- Rp 16 NMAC 27.14.2, 6-15-01; A, 7-1-04]

16.27.18.6 OBJECTIVE: The objective of Part 18 is to outline the code of ethics all applicants and licensed professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health counselors, registered independent mental health counselors, registered mental health counselors, licensed mental health counselors, alcohol and drug abuse counselors, alcohol abuse counselors, drug abuse counselors, and substance abuse [~~Interns~~] trainees must adhere to as licensed professionals. Failure to adhere to the code of ethics may result in disciplinary action by the board.

[16.27.18.6 NMAC- Rp 16 NMAC 27.14.6, 6-15-01; A, 7-1-04]

16.27.18.8 WHO MUST ADHERE TO THE CODE OF ETHICS: The counseling and therapy practice board code of ethics for professional mental health counselor, professional clinical mental health counselor, marriage and family therapist, professional art therapist, registered mental health counselor, registered independent mental health counselor, licensed

mental health counselor, alcohol and drug abuse counselor, alcohol abuse counselor, drug abuse counselor, and substance abuse [Interns] trainee. Licensure/registration is binding to all individuals holding a license/registration to practice professional mental health counseling, professional clinical mental health counseling, marriage and family therapy, professional art therapy, registered and licensed mental health counseling, registered independent mental health counseling, alcohol and drug abuse counseling, alcohol abuse counseling, drug abuse counseling, and substance abuse [Internship] trainee in the state of New Mexico, and approved supervisors.

[16.27.18.8 NMAC- Rp 16 NMAC 27.14.8, 6-15-01; A, 7-1-04]

16.27.18.9 SCOPE: This code of ethics regulates the ethical and professional conduct of:

- A. all licensed and registered individuals;
- B. all applicants for licensure or registration;
- C. registered and licensed mental health counselors, substance abuse [Interns] trainees and supervisors during their education, practicum and post-graduate training; and
- D. expert witnesses. it applies to all licensed or registered individuals, in direct contact with clients, as well as during education, training, and research endeavors.

[16.27.18.9 NMAC- Rp 16 NMAC 27.14.9, 6-15-01; A, 7-1-04]

16.27.18.16 PROFESSIONAL COMPETENCE, CONDUCT AND INTEGRITY

A. A licensed or registered individual shall not misrepresent his or her credentials, degrees, or competencies either through spoken word, written, or electronically transmitted material.

B. A licensed or registered individual, when interacting with a client or former client to whom the counselor or therapist has at anytime within the previous 60 months rendered counseling or therapy, shall not:

- (1) engage in sexual intercourse, contact or other physical intimacies with the client; or
- (2) enter into a financial or other potentially exploitive relationship with the client.

C. The prohibitions set out in 16.27.18.16 above shall not be limited to the 60-month period but shall extend indefinitely if the client is proven to be clearly vulnerable, by reason of emotional or cognitive disorder, to exploitive influence by the counselor or therapist. The counselor or

therapist who engages in such activity after the [two years] 60-month period following cessation or termination of treatment bears the burden of providing proof that there has been no exploitation, in light of all relevant factors, including

- (1) the amount of time that has passed since therapy terminated;
- (2) the nature and duration of the therapy;
- (3) the circumstances of termination;
- (4) the patient's or client's personal history;
- (5) the patient's or client's mental status;
- (6) the likelihood of adverse impact on the patient or client and others; and

(7) any statements or actions made by the counselor or therapist during the course of therapy suggesting or inviting the possibility of a post termination relationship with the patient or client.

D. A licensed or registered individual shall not undertake or continue a professional relationship with a client when the counselor or therapist is impaired due to mental, emotional, physiological, or substance abuse conditions.

E. A licensed or registered individual is in violation of this code and subject to loss of licensure or other disciplinary action if they:

- (1) are convicted of a felony or misdemeanor related to their qualifications or functions; or
- (2) are disciplined by other state licensing boards for acts which would be a violation under this code of ethics, statutes or regulations; or
- (3) are no longer competent to practice; or
- (4) fail to cooperate with the state at any point from the inception of a conduct complaint through the completion of all proceedings regarding that complaint.

F. Licensed or registered individuals shall only perform counseling or therapy services within the scope of practice for their license. Licensed or registered individuals shall only perform testing and assessment services for which they are authorized under the act.

G. Licensed or registered individuals shall not use advertising, which is misleading, deceptive or false. All and any announcements of services shall include state designation and license number.

H. A licensed or registered individual, when developing competency in a service or technique that is either new to the counselor or therapist, or new to the profession, shall engage in ongoing consultation with other relevant professionals and

shall seek appropriate education and training in the new area. The counselor or therapist, shall inform the client of the innovative nature and the known risks associated with the services, so that the client can exercise freedom of choice concerning the services.

[16.27.18.16 NMAC- Rp 16 NMAC 27.14.16, 6-15-01; A, 7-1-04]

**NEW MEXICO
COUNSELING AND
THERAPY PRACTICE
BOARD**

This is a amendment to 16.27.19 NMAC, Section 7, effective July 1, 2004

16.27.19.7 DEFINITIONS: Approved supervisor definitions

A. Administrative supervision means those supervisory activities, which increase the efficiency and management of the delivery of counseling services.

B. Clinical supervision means the supportive and educative activities of the supervisor designed to improve the application of counseling theory and technique directly to clients. Clinical supervision is the only supervision acceptable for licensure.

C. Applied counseling settings means public or private organizations of counselors and therapists such as community mental health counselors, hospitals, schools, and group or individual private practice settings.

D. Supervisees means registered mental health counselors, licensed mental health counselors or substance abuse [Interns] trainees, or licensees who are working with clients in an applied counseling settings.

E. Supervisors means counselors and therapists or other approved supervisors who within applied counseling settings oversee the professional clinical work of registered mental health counselors or licensees.

[16.27.19.7 NMAC- Rp 16 NMAC 27.16.7, 6-15-01; A, 7-1-04]

**NEW MEXICO
COUNSELING AND
THERAPY PRACTICE
BOARD**

This is an amendment to 16.27.20 NMAC, Section 2, effective July 1, 2004

16.27.20.2 SCOPE: All professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health

counselors, registered independent mental health counselors, registered mental health counselors, licensed mental health counselors, alcohol and drug abuse counselors, alcohol abuse counselors, drug abuse counselors, and substance abuse ~~interns~~ trainees.

[16.27.20.2 NMAC- Rp 16 NMAC 27.17.2, 6-15-01; A, 7-1-04]

**NEW MEXICO ENERGY,
MINERALS AND NATURAL
RESOURCES
DEPARTMENT
OIL CONSERVATION DIVISION**

This is an amendment to 19.15.14 NMAC, Sections 1201, 1220, 1204, 1205, 1207, 1208, 1209, and 1221 to be effective 06/15/04. The rest of the rule has corrections made to unnecessary capitalization with no substantive changes.

19.15.14.1201 RULE MAKING PROCEEDINGS:

A. Before any rule, including revocation or amendment ~~[thereof]~~ of an existing rule, shall be made by the division or commission, a public hearing before the commission or a duly appointed division examiner shall be held at such time and place as may be prescribed by the commission in accordance with Section 10-15-1 NMSA 1978.

B. When the commission, the division, an operator or any interested person applies to adopt, amend or rescind any rule, such application shall constitute a request for rulemaking ~~[for which the following notice requirements apply]~~, and the division shall publish notice of the proposed rulemaking:

(1) ~~[the division shall publish notice of the proposed rule]~~ one time in a newspaper of general circulation in the counties in New Mexico affected by the proposed rule (or if the proposed rule will be of statewide application, in a newspaper of general circulation in this state), with the publication date not less than 20 days prior to the date set for the public hearing; [and]

(2) ~~[the division shall publish notice of the proposed rule on the commission docket and shall send the docket to]~~ on the applicable docket for the commission or division hearing at which the matter will be heard, which shall be sent by regular mail or electronic mail to all who have requested such notice, not less than 20 days prior to the public hearing[-];

(3) one time in the New Mexico register, with the publication date not less than 10 days prior to the public hearing; and

(4) by posting to the division's website not less than 20 days prior to the

public hearing.

C. If the rule proposed to be adopted, amended or rescinded is of statewide application, the hearing shall be conducted before the commission in the first instance unless the division director otherwise directs.

D. 19.15.14.1201 NMAC shall not apply to special pool rules, which may be adopted, amended or rescinded in adjudicatory proceedings subject to the notice provisions of Sections 1204 and 1207 of 19.15.14 NMAC.

[1-1-50...2-1-96; A, 7-15-99; 19.15.14 NMAC - Rn, 19 NMAC 15.N.1201, 8-29-03; A, 06/15/04]

19.15.14.1202 E M E R G E N C Y ORDERS AND RULES:

A. Notwithstanding any other provision of ~~[these rules]~~ 19.15 NMAC, in the event an emergency is found to exist by the division or commission, which requires adoption of a rule or the issuance of an order without a hearing, such emergency rule or order shall have the same validity as if a hearing had been held before the division or commission after due notice. Such emergency rule or order shall remain in force no longer than 15 days from its effective date.

B. Notwithstanding any other provision of 19.15.14 NMAC, in the event an emergency is found to exist by the division or commission, a hearing may be conducted upon any application within less than twenty-three (23) days after the filing thereof, and notice of such hearing may be given within such lesser time than twenty (20) days as the director of the division shall order.

[1-1-50...2-1-96; A, 7-15-99; 19.15.14 NMAC - Rn, 19 NMAC 15.N.1201, 8-29-03; A, 06/15/04]

19.15.14.1204 PUBLICATION OF NOTICE OF HEARING:

A. The division shall give notice of each hearing before the commission or a division examiner by ~~[publication once in accordance with the requirements of Chapter 14, Article 11 NMSA 1978, in a newspaper of general circulation in the counties that are affected by the application]~~ (1) posting notice on the division's website, and (2) delivering notice by ordinary first class United States mail or electronic mail to each person who has requested in writing to be notified of such hearings.

B. In addition, the division shall give notice of each hearing before the commission by publication once in accordance with the requirements of Chapter 14, Article 11 NMSA 1978, in a newspaper of general circulation in the counties that are affected by the application or, if the effect of

the application will be statewide, in a newspaper of general circulation in this state.

[1-1-50...2-1-96; A, 7-15-99; 19.15.14 NMAC - Rn, 19 NMAC 15.N.1204, 8-29-03; A, 06/15/04]

19.15.14.1205 CONTENTS OF NOTICE OF HEARING:

A. Published notices shall be issued in the name of "The State of New Mexico" and signed by the director of the division, and the seal of the commission shall be impressed thereon.

B. The notice shall specify: whether the case is set for hearing before the commission or a division examiner; the number and style of the case; the time and place of hearing; and the general nature of the application. The notice shall also state the name of the applicant[-], ~~[and unless the contemplated order or rule is intended to apply to and affect the entire state, it shall specify or generally describe the common source or sources of supply that may be affected if the application is granted]~~ If the application seeks to adopt, revoke or amend special pool rules, establish or alter a non-standard unit, permit an unorthodox location, or establish or affect the allowable of any well or proration unit, the notice shall specify each pool or common source of supply that may be affected if the application is granted. If the application seeks compulsory pooling or statutory unitization, the notice shall contain a legal description of the spacing unit or geographical area sought to be pooled or unitized. In all other cases, the notice shall reasonably identify the subject matter so as to alert persons who may be affected if the application is granted.

[1-1-50...2-1-96; A, 7-15-99; 19.15.14 NMAC - Rn, 19 NMAC 15.N.1205, 8-29-03; A, 06/15/04]

19.15.14.1207 NOTICE REQUIREMENTS FOR SPECIFIC ADJUDICATIONS:

A. Applicants for the following adjudicatory hearings before the division or commission shall give notice, in addition to that required by 19.15.14.1204 NMAC, as set forth below:

(1) Compulsory pooling and statutory unitization.

(a) Notice shall be given to any owner of an interest in the mineral estate of any portion of the lands proposed to be pooled or unitized whose interest is evidenced by a written document of conveyance either of record or known to the applicant at the time of filing the application and whose interest has not been voluntarily committed to the area proposed to be pooled or unitized (other than a royalty interest subject to a pooling or unitization clause).

~~(b) When [an applicant is unable to locate all the owners of interests to be pooled and the application is unopposed by those located, the applicant may file under the following alternate procedure if] notice is given as required in [(a) above] Subparagraph (a) of Paragraph (1) of Subsection A of 19.15.14.1207 NMAC, of an application for compulsory pooling and the application is unopposed by those owners located, the applicant may file under the following alternate procedure.~~ The application shall include the following:

(i) a statement that no opposition ~~[for hearing]~~ is expected and why;

(ii) a map outlining the spacing unit(s) to be pooled, showing the nature and percentage of the ownership interests and location of the proposed well;

(iii) the names and last known addresses of the interest owners to be pooled and the nature and percent of their interests and an attestation that a diligent search has been conducted of all public records in the county where the well is located and of phone directories, including computer searches;

(iv) the names of the formations and pools to be pooled (note: ~~[the division cannot] this procedure does not apply to an application to pool a spacing unit larger in size than provided in [these rules] 19.15.3.104 NMAC or applicable special pool orders~~);

(v) a statement as to whether the pooled unit is for gas and/or oil production (see note under ~~[(iv) above] item (iv) of Subparagraph (b) of Paragraph (1) of Subsection A of 19.15.14.1207 NMAC~~;

(vi) written evidence of attempts made to gain voluntary agreement including but not limited to copies of relevant correspondence;

~~(vii) [geological map(s) of the formation(s) to be tested and a geological and engineering assessment of the risk involved in the drilling of the well and a proposed risk penalty to be assessed against any working interest owner who does not pay its share of estimated well costs];~~

~~[(viii)] proposed overhead charges (combined fixed rates) to be applied during drilling and production operations along with the basis for such charges;~~

~~[(ix)] (viii) the location and proposed depth of the well to be drilled on the pooled units; and~~

~~[(x)] (ix) a copy of the authorization for expenditure (AFE) to be submitted to the interest owners in the well.~~

(c) All submittals required shall be accompanied by sworn and notarized statements by those persons who prepared the submittals, attesting that the information

is correct and complete to the best of their knowledge and belief.

(d) All unopposed pooling applications will be set for hearing. If the division finds the application complete, the information submitted with the application will constitute the record in the case, and an order will be issued based on the record.

(e) At the request of any interested person or upon the division's own initiative, any pooling application submitted shall be set for full hearing with oral testimony by the applicant.

(2) Unorthodox well locations.

(a) Definition "affected persons" are the following persons owning interests in the adjoining spacing units:

(i) the division-designated operator;

(ii) in the absence of an operator, any lessee whose interest is evidenced by a written document of conveyance either of record or known to the applicant as of the date the application was filed; and

(iii) in the absence of an operator or lessee, any mineral interest owner whose interest is evidenced by a written document of conveyance either of record or known to the applicant as of the date the application was filed. In the event the operator of the proposed unorthodox well is also the operator of an existing adjoining spacing unit and ownership is not common between the adjoining spacing unit and the spacing unit containing the proposed unorthodox well, then "affected persons" include all working interest owners in that spacing unit.

(b) If the proposed location is unorthodox by being located closer to the outer boundary of the spacing unit than permitted by ~~[Rule] 19.15.3.104 NMAC or applicable special pool orders~~, notice shall be given to the affected persons in the adjoining spacing units towards which the unorthodox location encroaches.

(c) If the proposed location is unorthodox by being located in a different quarter-quarter section or quarter section than provided in special pool orders, notice shall be given to all affected persons.

(3) Non-standard proration unit. Notice shall be given to all owners of interests in the mineral estate to be excluded from the proration unit in the quarter-quarter section (for 40-acre pools or formations), the one-half quarter section (for 80-acre pools or formations), the quarter section (for 160-acre pools or formations), the half section (for 320-acre pools or formations), or section (for 640-acre pools or formations) in which the non-standard unit is located and to such other persons as required by the division.

(4) Special pool orders regulating

or affecting a specific pool.

(a) Except for non-standard proration unit applications, if the application involves changing the amount of acreage to be dedicated to a well, notice shall be given to:

(i) all division-designated operators in the pool; and

(ii) all owners of interests in the mineral estate in existing spacing units with producing wells.

(b) If the application involves other matters, notice shall be given to:

(i) all division-designated operators in the pool; and

(ii) all division-designated operators of wells within the same formation as the pool and within one (1) mile of the outer boundary of the pool which have not been assigned to another pool.

(5) Special orders regarding any division-designated potash area. Notice shall be given to all potash lessees, oil and gas operators, oil and gas lessees and unleased mineral interest owners within the designated potash area. (a) through (d). The material on unorthodox locations was moved to Paragraph (2) of Subsection A of 19.15.14.1207 NMAC.

(6) Downhole commingling. Notice shall be given to all owners of interests in the mineral estate in the spacing unit if ownership is not common for all commingled zones within the spacing unit.

(7) Surface disposal of produced water or other fluids. Notice shall be given to any surface owner within one-half mile of the site.

~~(8) Surface commingling. Notice shall be given as prescribed in 19.15.5.303 NMAC.~~

~~(8)(9) Adjudications not listed above. Notice shall be given as required by the division.~~

~~(9) This paragraph has been moved and renumbered to Paragraph (6) of Subsection A of 19.15.14.1207 NMAC.~~

~~(10) This paragraph has been moved and renumbered to Paragraph (7) of Subsection A of 19.15.14.1207 NMAC.~~

~~(11) This paragraph has been moved and renumbered to Paragraph (8) of Subsection A of 19.15.14.1207 NMAC.~~

B. Type and content of notice. Any notice required by ~~[this rule] 19.15.14.1207 NMAC~~ shall be sent by certified mail, return receipt requested, to the last known address of the person to whom notice is to be given at least 20 days prior to the date of hearing of the application and shall include[-] a copy of the application[-], the date, time and place of the hearing[-], and the means by which protests may be made. When an applicant has been unable to locate all persons entitled to notice after

exercising reasonable diligence, notice shall be provided by publication, and proof of publication shall be submitted at the hearing. Such proof shall consist of a copy of the legal advertisement that was published in a newspaper of general circulation in the county or counties in which the property is located or if the effect of the application is statewide, in a newspaper of general circulation in this state.

C. At the hearing, the applicant shall make a record, either by testimony or affidavit signed by the applicant or its authorized representative, that: (a) the notice provisions of ~~[this rule]~~ 19.15.14.1207 NMAC have been complied with; (b) the applicant has conducted a good-faith diligent effort to find the correct address of all persons entitled to notice; and (c) pursuant to ~~[this rule]~~ 19.15.14.1207 NMAC notice has been given at that correct address as required by ~~[this rule]~~ 19.15.14.1207 NMAC. In addition, the record shall contain the name and address of each person to whom notice was sent and, where proof of receipt is available, a copy of the proof.

D. Evidence of failure to provide notice as required in ~~[this rule]~~ 19.15.14.1207 NMAC may, upon proper showing, be considered cause for reopening the case.

E. In the case of an administrative application where the required notice was sent and a timely filed protest was made, the division shall notify the applicant and the protesting party in writing that the case has been set for hearing and the date, time and place of the hearing. No further notice is required.

[1-1-86...2-1-96; A, 7-15-99; 19.15.14 NMAC - Rn, 19 NMAC 15.N.1207, 8-29-03; A, 06/15/04]

19.15.14.1208 PLEADINGS [¶], COPIES AND PRE-HEARING STATEMENTS:

A. For pleadings and correspondence filed in cases pending before a division examiner, two copies must be filed with the division. For pleadings and correspondence filed in cases pending before the commission, five copies must be filed with the division. The division will disseminate copies to the members of the commission. The party filing the pleading or correspondence shall at the same time either hand deliver or transmit by facsimile or electronic mail to any party who has entered an appearance therein or the attorneys of record, a copy of the pleading or correspondence. An appearance of any interested party shall be made either by letter addressed to the division or in person at any proceeding before the commission or before

a division examiner, with notice of such appearance to the parties of record.

B. Parties to an adjudicatory proceeding ~~[must]~~ who intend to present evidence at the hearing shall file a pre-hearing statement [three], and serve a copy thereof on opposing counsel of record in the manner provided in Subsection A of 19.15.14.1208 NMAC, at least four days in advance of a scheduled hearing before the division or the commission[-], but in no event later than the Friday preceding the scheduled hearing. The statement must include: the names of the parties and their attorneys; a concise statement of the case; the names of all witnesses the party will call to testify at the hearing; the approximate time the party will need to present its case; and identification of any procedural matters that are to be resolved prior to the hearing. [9-15-55...2-1-96; A, 7-15-99; 19.15.14 NMAC - Rn, 19 NMAC 15.N.1208, 8-29-03; A, 06/15/04]

19.15.14.1209 CONTINUANCE OF HEARING WITHOUT NEW SERVICE:

Any hearing before the commission or a division examiner held after due notice may be continued by the person presiding at such hearing to a specified time and place without the necessity of notice of the same being again served or published. ~~[In the event of any continuance, a statement thereof shall be made in the record of the hearing that is continued.]~~

[1-1-50...2-1-96; A, 7-15-99; 19.15.14 NMAC - Rn, 19 NMAC 15.N.1209, 8-29-03; A, 06/15/04]

19.15.14.1221 COPIES OF COMMISSION AND DIVISION ORDERS:

Within 10 days after an order, including any order granting or refusing rehearing or order following rehearing, has been issued, a copy of such order shall be mailed by the division to each party or its attorney of record. For purposes of 19.15.14.1221 NMAC only, the parties to a case are the applicant and each person who has entered an appearance in the case, in person or by attorney, either by filing a protest, pleading or notice of appearance with the division or by entering an appearance on the record at a hearing.

[9-15-55...2-1-96; A, 7-15-99; 19.15.14 NMAC - Rn, 19 NMAC 15.N.1221, 8-29-03; A, 06/15/04]

NEW MEXICO DEPARTMENT OF HEALTH DIVISION OF HEALTH IMPROVEMENT

This Part 7.7.2 NMAC, Requirements For General And Special Hospitals, filed May 9,

2002, is hereby repealed and replaced by 7.7.2 NMAC, Requirements For Acute-Care, Limited Services And Special Hospitals, effective June 15, 2004.

NEW MEXICO DEPARTMENT OF HEALTH DIVISION OF HEALTH IMPROVEMENT

TITLE 7 HEALTH CHAPTER 7 HOSPITALS PART 2 REQUIREMENTS FOR ACUTE CARE, LIMITED SER- VICES AND SPECIAL HOSPITALS

7.7.2.1 ISSUING AGENCY:
New Mexico Department of Health,
Division of Health Improvement, Health
Facility Licensing & Certification Bureau.
[7.7.2.1 NMAC - Rp, 7.7.2.1 NMAC, 06-
15-04]

7.7.2.2 SCOPE: These requirements apply to public and private hospitals as defined in Section 7.7.2.7 of these requirements. Facilities that are specifically exempt under Section 24-1-2 (D), NMSA 1978, from being treated as hospitals for purposes of regulation under Section 24-1-5, NMSA 1978, and these requirements, are physicians' clinics and offices, nursing homes, as well as health centers and correctional institutions that are operated by the state.
[7.7.2.2 NMAC - Rp, 7.7.2.2 NMAC, 06-
15-04]

7.7.2.3 STATUTORY AUTHORITY: The requirements set forth herein are promulgated by the secretary of the department of health, pursuant to the general authority granted under Section 9-7-6 (E), NMSA 1978, as amended and the authority granted under Sections 24-1-2 (D), 24-1-3 (I) and 24-1-5, NMSA 1978, of the Public Health Act as amended.
[7.7.2.3 NMAC - Rp, 7.7.2.3 NMAC, 06-
15-04]

7.7.2.4 DURATION:
Permanent.
[7.7.2.4 NMAC - Rp, 7.7.2.4 NMAC, 06-
15-04]

7.7.2.5 EFFECTIVE DATE:
June 15, 2004, unless a later date is specified at the end of a section.
[7.7.2.5 NMAC - Rp, 7.7.2.5 NMAC, 06-
15-04]

7.7.2.6 OBJECTIVE:
A. Establish standards for

licensing hospitals in order to ensure that hospital patients receive adequate care and treatment and that the health and safety of patients and hospital employees are protected.

B. Establish standards for the construction, maintenance and operation of hospitals.

C. Regulate such hospitals in providing the appropriate level of care for patients

D. Provide for hospital compliance with these requirements through surveys to identify any areas that could be dangerous or harmful to the health, safety, or welfare of the patients and staff. [7.7.2.6 NMAC - Rp, 7.7.2.6 NMAC, 06-15-04]

7.7.2.7 DEFINITIONS:

A. “**Abuse**” means injury, sexual misuse, or neglect resulting in harm of an individual patient.

B. “**Acute-care hospital**” means a hospital providing emergency services, in-patient medical and nursing care for acute illness, injury, surgery or obstetrics; ancillary services such as pharmacy, clinical laboratory, radiology, and dietary are required for acute-care hospitals.

C. “**Allied health personnel**” means persons who are not physicians, podiatrists, psychologists or dentists who may be admitted to practice in the hospital through the medical staff credentialing process, and includes.

(1) “**Licensed independent practitioner**” means an advanced practice professional registered nurse permitted by law to provide care without direction or supervision within the scope of the individual’s license and consistent with individually granted privileges; this includes certified nurse midwives, certified nurse practitioners and clinical nurse specialists.

(2) “**Certified registered nurse anesthetist**” means an advanced practice professional registered nurse permitted by law to provide anesthesia care; in an independent role as a member of a health care team in which medical care of the patient is directed by a medical physician, osteopathic physician, dentist or podiatrist licensed in the state of New Mexico; the certified registered nurse anesthetist shall collaborate with the medical physician, osteopathic physician, dentist or podiatrist concerning the anesthesia care or the patient; collaboration means the process in which each health care provider contributes their respective expertise.

(3) “**Physician assistant**” means a person licensed as a physician assistant by the New Mexico board of medical examiners, pursuant to Section 61-6-6, NMSA 1978.

D. “**Annual net revenue**” means, as determined from the hospitals governing board’s approved audited financial statement for an annual time period, the hospital’s net patient services revenue; net patient services revenue does not include net operating revenue from other sources, such as medical office rental and cafeteria; annual net revenue is determined after deductions for:

(1) contractual allowances;

(2) uncompensated care and bad debt;

(3) charity care; and

(4) annual net revenue excludes other non-operating revenues, including but not limited to, income from endowments, investments, gifts and bequests, and net gain on sale of fixed assets.

E. “**Annual cost of care**” means with respect to the requirements of Section 24-1-5.8 NMSA 1978 (2003), the billed charges of providing emergency services and general health care to nonpaying patients and low-income reimbursed patients.

F. “**Applicant**” means the individual who, or organization which, applies for a license; if the applicant is an organization, then the individual signing the application on behalf of the organization must have the authority to sign for the organization.

G. “**Audiologist**” means a person licensed under the Speech-Language Pathology and Audiology Act, Sections 61-14B-1 to 61-14B-16, NMSA 1978, to practice audiology.

H. “**Automated medication management system**” means an automatic device that compounds, measures, counts, packages and delivers a specified quantity of dosage units for a designated product and which collects, controls and maintains all transaction information.

I. “**CMS**” means center for medicare & medicaid services.

J. “**Consultant pharmacist**” means a person licensed in New Mexico under the Pharmacy Act, Section 61-11-2 (D), NMSA 1978, as a consultant pharmacist.

K. “**Critical access hospital**” means a hospital with special characteristics, duly certified as such by centers for medicare and medicaid services (CMS) and is in compliance with the conditions of participation for such facilities; such critical access hospitals are deemed as meeting the intent of these requirements and may be licensed accordingly by the licensing authority.

L. “**Dentist**” means a person licensed to practice dentistry under the Dental Act, Sections 61-5-1 to 61-5-22, NMSA 1978.

M. “**Department**” means the New Mexico department of health.

N. “**Dietician**” means a person who is eligible for registration as a dietitian by the commission on dietetic registration of the American dietetic association, or who has a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management.

O. “**Dietetic service supervisor**” means a person who:

(1) is a qualified dietitian with one year of supervisory experience in the dietetic service of a health care institution; or

(2) is a graduate of a dietetic technician or dietetic assistant training program, approved by the American dietetic association and has consultation from a qualified dietitian; or

(3) is a graduate of a state-approved course that provided 90 or more hours of classroom instruction in food service supervision and has experience as a supervisor in a health care institution with consultation from a dietitian; if the supervisor is not a qualified dietitian then consultation from a qualified dietitian must be provided.

P. “**Distinct emergency service**” means an emergency distinct department that provides a medical screening examination and treatment of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain, psychiatric disturbances or symptoms of substance abuse) that requires immediate medical attention.

Q. “**Emergency care for sexual assault survivors**” means medical examinations, procedures and services provided by a hospital to a sexual assault survivor following an alleged sexual assault.

R. “**Emergency contraception**” means a drug approved by the federal food and drug administration that prevents pregnancy after sexual intercourse.

S. “**Emotional abuse**” means verbal behavior, harassment, or other actions that result in emotional or behavioral problems, physical manifestations, disordered or delayed development.

T. “**Financial interest**” means any equity, security, lease or debt interest in the hospital; financial interest also includes any equity, security, and lease or debt interest in any real property used by the hospital or in any entity that receives compensation arising from the use real property by the hospital.

U. “**Health physicist**” means a person holding a master’s degree or doctorate in an appropriate discipline of radiologic physics or who has equivalent education and experience.

V. “**Hospital**” means a

facility offering in-patient services, nursing, overnight care on a 24-hour basis for diagnosing, treating, and providing medical, psychological or surgical care for three or more separate individuals who have a physical or mental illness, disease, injury, a rehabilitative condition or are pregnant; use of the term "hospital" for any facility not duly licensed according to these requirements is prohibited; any acute care hospital shall have emergency services, inpatient medical and nursing care for acute illness, injury, surgery, and obstetrics; any limited services hospital shall have emergency services, inpatient medical and nursing care for acute illness, injury and surgery; ancillary services such as pharmacy, clinical laboratory, radiology, and dietary are required for acute-care or limited service hospitals.

W. "Long term acute-care hospital" means a hospital providing long term, in-patient medical care for medically-complex patients whose length of stay averages greater than 25 days; ancillary support services such as pharmacy, clinical laboratory, radiology, and dietary are required for long-term acute-care hospitals.

X. "Low-income patient" means a patient whose family or household income does not exceed two hundred percent of the most current federal poverty level.

Y. "Rehabilitation hospital" means a special hospital that primarily provides rehabilitative care to inpatients.

Z. "Legally authorized person" means a parent of a minor, a court appointed guardian or a person authorized by the patient in accordance with law to act on the patient's behalf.

AA. "Licensed practical nurse" means a person licensed as a practical nurse under the Nursing Practice Act, Sections 61-3-1 through 61-3-30, NMSA 1978.

AB. "Licensee" means the person(s) who, or organization which, has an ownership, leasehold, or similar interest in the hospital and in whose name a license has been issued and who is legally responsible for compliance with these requirements.

AC. "Licensing authority" means the agency within the department vested with the authority to enforce these requirements.

AD. "Limited services hospital" means a hospital that limits admissions according to medical or surgical specialty, type of disease or medical condition, or a hospital that limits its inpatient hospital services to surgical services or invasive diagnostic treatment procedures; a limited services hospital must have emergency services, inpatient medical and nursing care for acute illness, injury, and surgery, and must offer ancillary services including phar-

macy, clinical laboratory, radiology, and dietary; a limited services hospital does not include:

(1) a hospital licensed by the department as a special hospital;

(2) an eleemosynary hospital that does not bill patients for the services provided; and

(3) a hospital that has been granted a license prior to January 1, 2003.

AE. "Local community" means with respect to the requirements of Section 24-1-5.8 NMSA 1978 (2003), the New Mexico standard metropolitan statistical area or county in which a limited services hospital or an acute-care hospital applies to be licensed or becomes initially licensed by the department at any time after January 1, 2003; if the applicant seeks licensure of a facility within the boundaries of a New Mexico standard metropolitan statistical area, the local community for purposes of that application is that standard metropolitan statistical area; if the applicant seeks licensure of a facility not within the boundaries of a New Mexico standard metropolitan statistical area, the local community for purposes of that application is the New Mexico county.

AF. "Medically and factually accurate and objective" means verified or supported by the weight of research conducted in compliance with accepted scientific methods and standards; published in peer-reviewed journals; and recognized as accurate and objective by leading professional organizations and agencies with relevant expertise in the field of obstetrics and gynecology, such as the American college of obstetricians and gynecologists.

AG. "Medical staff" means the hospital's organized component of physicians, podiatrists, psychologists, dentists and allied health personnel who have been appointed by the governing body of the hospital and granted specific privileges for the purpose of providing care for the patients of the hospital.

AH. "Misappropriation of property" means the deliberate misplacement, misappropriation of patients' property, or wrongful, temporary or permanent use of a patient's belongings or money without the patients' consent.

AI. "Neglect" means the failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness.

AJ. "Nonpaying patients" means with respect to the requirements of Section 24-1-5.8 NMSA 1978 (2003), patients whose care is substantially uncompensated, including patients classified as charity care or bad debt.

AK. "Nosocomial" means an infection pertaining to or originating in a

hospital not present or incubating prior to admittance to a hospital.

AL. "Occupational therapist" means a person licensed as an occupational therapist under the Occupational Therapy Act, Sections 61-12A-1 to 61-12A-20, NMSA 1978.

AM. "Pharmacist" means a person licensed in New Mexico under the Pharmacy Act, 61-11-1 to 61-11-29, NMSA 1978.

AN. "Pharmacy" means a place where drugs are compounded or dispensed that is licensed by the New Mexico board of pharmacy.

AO. "Physical abuse" means damaging or potentially damaging acts or incidents that result in bodily injury or death.

AP. "Physical therapist" means a person licensed to practice physical therapy under the Physical Therapy Act, Sections 61-12-1 to 61-12-21, NMSA 1978.

AQ. "Physician" means a person licensed to practice medicine or osteopathy by the New Mexico board of medical examiners, pursuant to Section 61-6-10, NMSA 1978 or the osteopathic medical examiners board pursuant to Sections 61-10-1 through 61-10-21, NMSA 1978.

AR. "Physician owner" means a physician, podiatrist, dentist licensed by the New Mexico board of dental health care pursuant to Section 61-5A-12NMSA 1978, or any other person licensed in New Mexico as a health care practitioner permitted by the hospital to refer, admit or treat hospital patients, and who has a financial interest in the hospital.

AS. "Podiatrist" means a person licensed to practice podiatry or podiatric medicine and surgery under the Podiatry Act, Sections 61-8-1 to 61-8-16, NMSA 1978.

AT. "Privileges" means the authorization of the medical staff members to provide care to hospital patients in the area in which the person has expertise as a result of education, training and experience.

AU. "Psychologist" means a person licensed to practice psychology under the Professional Psychologists' Act, Sections 61-9-1 through 61-9-18, NMSA 1978.

AV. "Psychiatric hospital" means a special hospital that primarily provides by or under the supervision of a physician, psychological and/or psychiatric services for the diagnosis and treatment of mentally ill persons.

AW. "Registered nurse" means a person licensed as a professional registered nurse under the Nursing Practice Act, Sections 61-3-1 through 61-3-30, NMSA 1978.

AX. "Reporting year"

means with respect to the provision of financial, utilization, and services information for the hospital's last full and audited annual accounting period.

AY. "Respiratory care practitioner" means a person who is licensed under the Respiratory Care Act, Sections 61-12B-1 to 61-12B-16, NMSA 1978.

AZ. "Sexual assault" means the crime of criminal sexual penetration that may result in pregnancy.

BA. "Sexual assault survivor" means a person who alleges or is alleged to have been sexually assaulted and who presents as a patient to a hospital.

BB. "Special hospital" means a hospital that treats patients that have a diagnosis-related group classifications for two-thirds of all its patients that fall into no more than two major diagnosis categories, or if at least two-thirds of its patients are classified in a specific diagnosis category; an example of a special hospital is a psychiatric or rehabilitation hospital.

BC. "Speech pathologist" means a person who is licensed under the Speech-Language Pathology and Audiology Act, Sections 61-14B-1 to 61-14B-16, NMSA 1978 to practice speech language pathology.

BD. "Variance" means an act on the part of the licensing authority to refrain from enforcing compliance with a portion or portions of these requirements for an unspecified period of time where the granting of a variance will not create a danger to the health, safety, or welfare of parents or staff of a hospital and is at the sole discretion of the licensing authority.

BE. "Waive/waiver" means an act on the part of the licensing authority to refrain from enforcing compliance with a portion or portions of these requirements for a limited period of time less than one year, provided the health, safety, or welfare of patients and staff are not in danger; waivers are issued at the sole discretion of the licensing authority.

[7.7.2.7 NMAC - Rp, 7.7.2.7 NMAC, 06-15-04]

7.7.2.8 REQUIRED LICENSURE BY THE DEPARTMENT:

Procedures applicable after January 1, 2003: This section addresses the requirements of Section 24-1-5.8 NMSA 1978 (2003) and applies to local communities in which an acute-care hospital or a limited services hospital applies to be licensed or becomes initially licensed by the department at any time after January 1, 2003.

A. No hospital may operate in New Mexico unless it is licensed in accordance with the requirements of the New Mexico department of health.

B. The department shall issue a license to an acute-care hospital or a limited services hospital that meets the requirements of this rule and agrees to:

(1) continuously maintain and operate an emergency department that provides emergency medical services as defined in Section NMAC 7.7.2.37; and

(2) when applicable, participate in the medicare, medicaid and county indigent care programs; and

(3) require a physician owner to disclose and document in the patient's medical record a financial interest in the hospital before referring a patient to the hospital.

C. Comply with the same quality standards applied to other hospitals.

D. Provide emergency services and general health care to a number of nonpaying patients and low-income reimbursed patients in the same proportion as the patients that are treated in acute-care hospitals in the local community, as determined by the department provided that the annual cost of the care required to be provided pursuant to paragraph (5) shall not exceed an amount equal to five percent of the hospital's annual net revenue for the previous fiscal year from audited financial statements.

E. Require a health care provider to disclose a financial interest before referring a patient to the hospital.

F. Reporting Requirements-General: The department, in accordance with the requirements of Section 24-1-5.8 NMSA 1978 (2003) requires the provision of information necessary to determine the annual cost of care for emergency and general health care to nonpaying and low-income reimbursed patients, including the number of nonpaying and low-income reimbursed patients treated, for the hospital's last full and audited accounting period. This period is called the most recent reporting year.

G. Reporting Hospitals: After January 1, 2003, an application to the department for an initial license by an acute-care hospital or limited services hospital in a local community will require the provision of information necessary to determine the annual cost of care for emergency and general health care to nonpaying and low-income reimbursed patients, including the number of nonpaying and low-income reimbursed patients treated, for the most current reporting year. The following hospitals must report to the department within 30 days of notice from the department of application for an initial license by an acute-care hospital or limited services hospital:

(1) all limited services hospitals in the local community;

(2) all acute-care hospitals in the local community;

(3) the limited services hospital applying for the initial license or the acute-care hospital applying for the initial license must submit a business plan that provides information necessary to determine the projected annual cost of care for emergency and general health care to nonpaying and low-income reimbursed patients, including the number of nonpaying and low-income reimbursed patients.

H. Reporting Requirements-Specific: The reporting requirement for information necessary to determine the annual cost of care for emergency and general health care to nonpaying and low-income reimbursed patients, including the number of nonpaying and low-income reimbursed patients treated, for the hospital's last full and audited accounting period, shall be satisfied by the provision of a certified statement by the hospital's chief executive officer and an independent certified public accountant attesting to the accuracy of the above required information, in the format determined by the department. The department shall conduct, as determined necessary, an independent audit to validate the information provided in the certified statement.

I. Determination of proportionality by the department. Based upon the certified statements and business plan(s) submitted, the department shall determine whether the application for licensure will provide emergency services and general health care to the number of nonpaying patients and low-income reimbursed patients in the same proportion as the proportion of nonpaying and low-income reimbursed patients that are treated in acute-care hospitals in the local community. Upon that determination by the department that the proportional requirements are met by the applicant and the receipt of a certified statement by the applicant's chief executive officer that the proportions will be maintained, and other rule requirements are met by the applicant, the department may issue a license consistent with the requirements of Section 24-1-5.8 NMSA 1978 (2003).

J. Limitation on costs to achieve proportionality. The acute-care hospital or limited service hospital applying for licensure after January 1, 2003 shall submit to the department on an annual basis a certified statement from an independent certified public accountant setting out for that reporting year the hospital's annual cost incurred in the provision of care to low-income reimbursed patients and to nonpaying patients, in order to satisfy the hospital's proportionality requirements. Submission to the department of such certified statement from an independent certified public accountant shall be made by the hospital within 30 days of its acceptance by the hos-

pital's board of directors of the annual audited financial statement. The cost incurred in the provision of care to low-income reimbursed patients and nonpaying patients to satisfy the hospital's proportionality requirements is limited to five percent of the hospital's annual net revenue.

K. Penalties for Non-Reporting: Failure to meet the reporting requirements set out in this rule within the proscribed timeliness may result in a civil monetary penalty not to exceed \$500,000, in the suspension or revocation of the hospital's license, the referral to CMS for sanctions under the medicare and medicaid program.

L. Penalties for Failure to Provide Proportional Services. Failure by an acute-care hospital or limited service hospital applying for licensure after January 1, 2003 to provide proportional services to nonpaying and low-income reimbursed patients, as required by this section, in any year following licensure, as determined from the information submitted annually by the hospital's chief executive officer and an independent certified public accountant may result in the Department's imposition of one or more of the following penalties:

(1) a department-directed or department approved plan of correction in which the hospital's failure to provide proportional services to nonpaying and low-income reimbursed patients is remedied in subsequent years through the additional provision of services to nonpaying and low-income reimbursed patients beyond the proportion established by the department for such years;

(2) a civil monetary penalty not to exceed \$500,000;

(3) suspension or revocation of the hospital's license; and

(4) referral to CMS for sanctions under the medicare and medicaid programs.

M. Annual Reporting: Acute-care hospitals or limited services hospitals licensed after January 1, 2003, and all acute-care hospitals in the local community, shall submit to the department on an annual basis a certified statement from an independent certified public accountant that sets out:

(1) the annual cost of care for emergency and general health care to nonpaying and low-income reimbursed patients;

(2) the annual net patient service revenue;

(3) the number of nonpaying and low-income reimbursed patients treated; and

(4) the total number of patients treated.

N. Physician Owner Disclosure of Financial Interest

Requirements: Disclosure Required: The physician owner of a limited services hospital or an acute-care hospital initially licensed by the department at any time after January 1, 2003 shall not make a referral of a patient for the provision of health care items or services to such limited services hospital or the acute-care hospital unless, in advance of any such referral, the referring physician owner discloses to the patient the existence and the nature of physician's ownership interest.

O. The disclosure of financial interest by a physician owner, as required in this section, shall be made in writing, prior to or at the time of the referral, and shall be furnished to:

(1) the patient, or the patient's authorized representative, and

(2) the acute-care hospital or the limited services hospital licensed by the department at any time after January 1, 2003, in which the referring physician owner has a financial interest, for inclusion in the hospital's permanent patient's medical record; the acute-care hospital or the limited services hospital licensed by the department at any time after January 1, 2003 must permit inspection of the patient's medical record by authorized employees of the department to determine the hospital's compliance with this requirement, regardless of the hospital's deemed status.

P. The written disclosure of financial interest by a physician owner, as required in this section, shall include:

(1) the physician's name, address, and telephone number;

(2) the name and address of the limited services hospital or the acute-care hospital licensed by the department at any time after January 1, 2003 to which the patient is being referred by the physician;

(3) the nature of the items or services which the patient is to receive from the hospital to which the patient is being referred;

(4) the existence, nature and extent of the physician's financial interest in the hospital to which the patient is being referred; and

(5) a signed acknowledgement by the patient or the patient's authorized representative that the required disclosure has been furnished.

Q. To be approved by the New Mexico department of health, a hospital shall comply with these requirements and with all other applicable state laws and local ordinances. Staff of the hospital shall be licensed or registered, as appropriate, in accordance with applicable laws.

R. An application for licensure shall be submitted to the department on a form prescribed by the department. All applications must have the fol-

lowing information:

(1) name of administrator or chief executive officer;

(2) type of facility to be operated and types of services that will be offered;

(3) location of the hospital; and

(4) statement of ownership which must include:

(a) the name and principle business address of each officer and director for the corporation;

(b) the name and business address of each stockholder owning 10 percent or more of the stock;

(c) copy of the current organizational chart; and

(d) such other information or documents as may be required by the department for the proper administration and enforcement of the licensing law and requirements.

S. The department shall review and make a determination on an application for licensure within 90 working days of receipt of the application.

T. Separate licenses shall be required for hospitals that are maintained on separate premises even though they are under the same management. This does not apply to outpatient departments or clinics of hospitals designated as such which are maintained and operated on separate premises within the same county or, if in another county, not to exceed a one hour drive time from the parent facility. Separate licenses shall not be required for separate buildings on the same grounds or adjacent grounds.

U. Applications submitted for proposed construction of new hospitals or additions to licensed hospitals shall include architectural plans and specifications.

V. Information contained in such applications shall be on file in the department and available to interested individuals and community agencies.

[7.7.2.8 NMAC - Rp, 7.7.2.8 NMAC, 06-15-04]

7.7.2.9 TYPES OF LICENSE:

A. "Annual license": an annual license is issued for a one-year period to a hospital that has met all requirements of these requirements.

B. "Temporary license": the licensing authority may, at its sole discretion, issue a temporary license prior to the initial state licensing survey, or when the licensing authority finds partial compliance with these requirements.

(1) A temporary license shall cover a period of time, not to exceed 120 days, during which the facility must correct all specified deficiencies.

(2) In accordance with Section

24-1-5 (D) NMSA 1978, no more than two consecutive temporary licenses shall be issued.

C. "Amended license": a licensee must apply to the licensing authority for an amended license when there is any change of administrator, name, location, capacity, classification of any unit as listed in these requirements:

(1) the application must be on a form provided by the licensing authority;

(2) application must be accompanied by the required fee for an amended license; and

(3) application must be submitted at least 10 working days prior to the change. [7.7.2.9 NMAC - Rp, 7.7.2.9 NMAC, 06-15-04]

7.7.2.10 LICENSE RENEWAL:

A. The licensee must submit a renewal application on forms provided by the licensing authority, along with the required fee prior to the expiration of the current license.

B. Upon receipt of the renewal application and the required fee prior to expiration of current license, the licensing authority will issue a new license effective the day following the date of expiration of the current license if the facility is in substantial compliance with these requirements.

[7.7.2.10 NMAC - Rp, 7.7.2.10 NMAC, 06-15-04]

7.7.2.11 POSTING: The license, or a copy thereof, shall be conspicuously posted in a location accessible to public view within the hospital.

[7.7.2.11 NMAC - Rp, 7.7.2.11 NMAC, 06-15-04]

7.7.2.12 NON-TRANSFERABLE REGISTRATION OF LICENSE:

A license shall not be transferred by assignment or otherwise to other persons or locations. The license shall be void and must be returned to the licensing authority when any one of the following situations occur:

A. ownership of the hospital changes;

B. the facility changes location;

C. the licensee of the hospital changes; or

D. the hospital discontinues operation.

[7.7.2.12 NMAC - Rp, 7.7.2.12 NMAC, 06-15-04]

7.7.2.13 EXPIRATION OF LICENSE:

A license will expire at midnight on the day indicated on the license as the expiration date, unless sooner renewed,

suspended, or revoked, or:

A. on the day a facility discontinues operation; or

B. on the day a facility is sold, leased, or otherwise changes ownership and/or licensee; or

C. on the day a facility changes location.

[7.7.2.13 NMAC - Rp, 7.7.2.13 NMAC, 06-15-04]

7.7.2.14 SUSPENSION OF LICENSE WITHOUT PRIOR HEARING:

In accordance with 24-1-5 (H), NMSA 1978, if the licensing authority determines immediate action is required to protect human health and safety, the licensing authority may suspend a license. A hearing must be held in accordance with the regulations governing adjudicatory hearings, New Mexico department of health, 7 NMAC 1.2. [Recompiled as 7.1.2 NMAC]

[7.7.2.14 NMAC - Rp, 7.7.2.14 NMAC, 06-15-04]

7.7.2.15 GROUNDS FOR REVOCATION OR SUSPENSION OF LICENSE, DENIAL OF INITIAL OR RENEWAL APPLICATION FOR LICENSE, OR IMPOSITION OF INTERMEDIATE SANCTIONS OR CIVIL MONETARY PENALTIES:

A license may be denied, revoked or suspended, or intermediate sanctions or civil monetary penalties may be imposed after notice and opportunity for a hearing for any of the following reasons:

A. failure to comply with any provisions of these requirements;

B. failure to allow survey by authorized representatives of the licensing authority;

C. permitting any person while active in the operation of a facility licensed pursuant to these requirements to be impaired by the use of prescribed or non-prescribed drugs, including alcohol;

D. misrepresentation or falsification of any information provided to the licensing authority;

E. the discovery of repeat violations of these requirements during surveys; or

F. the failure to provide the required care and services as outlined by these requirements.

[7.7.2.15 NMAC - Rp, 7.7.2.15 NMAC, 06-15-04]

7.7.2.16 HEARING PROCEDURES:

A. An applicant or licensee subject to an adverse action may request an administrative appeal.

B. Hearing procedures for an administrative appeal of an adverse

action taken by the licensing authority against the hospital as outlined in Section 14 and 15 above will be held in accordance with adjudicatory hearings, New Mexico department of health, 7 NMAC 1.2. [Recompiled as 7.1.2 NMAC]

C. A copy of the adjudicatory hearing procedures will be furnished to the hospital at the time an adverse action is taken against the licensee by the licensing authority. A copy may be requested at any time by contacting the licensing authority.

[7.7.2.16 NMAC - Rp, 7.7.2.16 NMAC, 06-15-04]

7.7.2.17 WAIVERS AND VARIANCES:

A. Applications: All applications for the grant of a waiver or variance shall be made in writing to the licensing authority, specifying the following:

(1) the rule from which the waiver or variance is requested;

(2) the time period for which the waiver or variance is requested;

(3) if the request is for a variance, the specific alternative action which the facility proposes;

(4) the reasons for request; and

(5) an explanation of why the health, safety, and welfare of the residents or staff are not endangered by the condition.

B. Requests for a waiver or variance may be made at any time.

C. The licensing authority may require additional information from the hospital prior to acting on the request.

(1) **Grants and Denials:** The licensing authority shall grant or deny each request for waiver or variance in writing. Notice of a denial shall contain the reasons for denial. The decisions to grant, modify, or deny a request for a waiver or variance is subject to appeal one time only.

(2) The terms of a requested variance may be modified upon agreement between the licensing authority and the hospital.

D. The licensing authority may impose whatever conditions on the granting of a waiver or variance it considers necessary.

E. The licensing authority may limit the duration of any waiver.

[7.7.2.17 NMAC - Rp, 7.7.2.17 NMAC, 06-15-04]

7.7.2.18 GOVERNING BODY:

A. General Requirements. The hospital shall have an effective governing body, which is legally responsible for the management and provision of all hospital services, maintenance of the hospital services and the quality thereof.

B. Responsibilities. By-laws. The governing body shall adopt by-laws. The by-laws shall be in writing and shall be available to all members of the governing body as well as the public. The by-laws shall:

(1) stipulate the basis upon which members are selected, their terms of office and their duties and requirements;

(2) specify to whom responsibilities for operation and maintenance of the hospital, including evaluation of hospital practices, may be delegated, and the methods established by the governing body for holding these individuals responsible;

(3) require a physician owner or other provider to disclose to the patient or the patient's representative and document for the patient's medical record a financial interest in the hospital before referring a patient to the hospital;

(4) provide for the designation of officers, if any, their terms of office and their duties, and for the organization of the governing body;

(5) specify the frequency with which meetings shall be held;

(6) allow for the organization of committees, either standing or ad hoc, to assist the board in carrying out their responsibilities;

(7) provide for the appointment of members of the medical staff; and

(8) provide mechanisms for the formal approval of the organization, by-laws and rules of the medical staff.

C. Meetings.

(1) The governing body shall meet at regular intervals as stated in its by-laws.

(2) Meetings shall be held frequently enough for the governing body to carry on necessary planning for growth and development and to evaluate the performance of the hospital, including the care utilization of physical and financial assets and the delegation to the CEO/administrator for the hiring and direction of personnel.

(3) Minutes of meetings shall reflect pertinent business conducted.

D. Committees.

(1) The governing body shall appoint committees. There shall be an executive committee and others as allowed by bylaws.

(2) The number and types of committees shall be consistent with the size and scope of activities of the hospital

(3) The executive committee or the governing body as a whole shall establish operating guidelines for the activities and general policies of the various hospital services and committees established by the governing body.

(4) Written minutes, or reports,

which reflect business conducted by the executive committee shall be maintained for review by the governing body.

(5) Other committees, which may include finance, joint conference, quality improvement and plant and safety management committees, shall function in a manner consistent with their duties assigned by the governing body and shall maintain written minutes or reports which reflect the performance of these duties. If the governing body does not appoint a committee for a particular area, a member or members of the governing body shall assure the performance of the duties normally assigned to a committee for that area.

E. Medical Staff Liaison.

The governing body shall establish a formal means of liaison with the medical staff by a joint conference committee or by other means as follows:

(1) a direct and effective method of communication with the medical staff shall be established on a formal, regular basis, and shall be documented in written minutes or reports which are distributed to designated members of the governing body and the active medical staff; and

(2) liaison shall be a responsibility of the joint conference committee or its equivalent and the executive committee for designated members of the governing body.

F. Medical Staff

Appointments. The governing body shall appoint members of the medical staff in accordance with the approved medical staff by-laws.

(1) A formal procedure shall be established, governed by written rules covering application for medical staff membership and the method of processing applications.

(2) The procedure related to the submission and processing of applications shall involve the chief executive officer/administrator, the credentials committee of the medical staff or its equivalent, and the governing body.

(3) Action taken by the governing body on applications for medical staff appointments shall be in writing; and available to the licensing authority during surveys or complaint investigations.

(4) Written notification of applicants shall be made by either the governing body or its designated representative.

(5) Applicants selected for medical staff appointment shall sign an agreement to abide by the medical staff rules and by-laws.

(6) The governing body shall establish a procedure for appeal and hearing by the governing body or a designated committee if the applicant or the medical staff wishes to contest the decision on an application for medical staff appointments.

G. Appointment of chief executive officer/administrator. The governing body shall appoint an administrator or a chief executive officer/administrator for the hospital. The governing body shall review the performance of the chief executive officer/administrator at least annually.

H. Patient Care. The governing body shall establish a policy, which requires that every patient be under the care of a licensed, independent practitioner as determined by the medical staff and governmental body.

I. Physical Plant Requirements. The governing body shall be responsible for providing a physical plant equipped and staffed to maintain the needed facilities and services for patients.

J. Risk Management. The facility shall have a risk management program. State, county or city facilities must have a risk management plan in accordance with the general services department rules.

K. Discharge Planning.

(1) The governing body shall assure that the hospital maintains an effective, ongoing program coordinated with community resources to facilitate the provision of appropriate follow-up care to patients who are discharged.

(2) The hospital shall have current information on community resources available for continuing care of discharged patients.

(3) The discharge planning program shall:

(a) have a mechanism to identify patients who require discharge planning to provide continuity of medical care to meet their identified needs;

(b) initiate discharge planning in a timely manner;

(c) identify the role of the patient's provider, nursing staff, social work staff, other appropriate staff, the patient, and the patient's family or representative in the initiation and implementation of the discharge planning process;

(d) assure documentation in the medical record of the discharge plan;

(e) allow for the timely and effective transmittal of all medical, social, economic information concerning the patient to persons responsible for subsequent care of the patient;

(f) provide that every patient, or their legal representatives, receive relevant information concerning their health needs and is involved in his or her own discharge planning; and

(g) be reviewed at least once a year to evaluate effectiveness.

[7.7.2.18 NMAC - Rp, 7.7.2.18 NMAC, 06-15-04]

hospital shall have written policies approved by the governing board and shall include provisions for implementation, and for access by the patient, on:

A. Patient rights and responsibilities: a list of these patient rights and responsibilities shall be available in languages appropriate to the ethnic needs of the community;

(1) The policies on patient rights and responsibilities shall provide that:

(a) patients may not be denied appropriate hospital care because of the patient's race, creed, color, national origin, religion, sex, sexual orientation, marital status, age, disability or source of payment;

(b) patients shall be treated with consideration, respect, and recognition of their individuality, including the need for privacy in treatment;

(c) the individual patient's medical records, including all computerized medical information, shall be kept confidential in accordance with applicable federal, state and local laws;

(d) the patient or any person authorized by statute or in writing by the patient shall have access to the patient's medical record but access to patient's psychiatric records may be limited by treating professionals when specific hospital policies specify requirements for limiting access;

(e) every patient shall be entitled to know who has overall responsibility for the patient's care;

(f) every patient, legally authorized person or any person authorized in writing by the patient, shall receive, from the appropriate person within the facility, information about his illness, course of treatment and prognosis for recovery in terms the patient can understand;

(g) every patient, or his designate representative, where appropriate, shall have the opportunity to participate to the fullest extent possible in planning for his care and treatment;

(h) every patient, or his designated representative, shall be given, at the time of admission, a copy of the patient's rights and responsibilities;

(i) except in emergencies, the consent of the patient, or their legally authorized representative, shall be obtained before treatment is administered;

(j) any patient may refuse treatment to the extent permitted by law and shall be informed of the medical consequences of the refusal;

(k) the patient, the patient's legally authorized representative, or person granted the power to authorize medical treatment, shall be fully informed and give consent for the patient's participation in any form of research or experimentation;

(l) except in emergencies, the patient may be transferred to another facility only with a full explanation of the reason for the transfer, provision for continuing care; and acceptance by the receiving institution;

(m) every patient may examine and receive an explanation of the patient's hospital bill regardless of source of payment, and may receive upon request, information relating to financial assistance available through the hospital;

(n) every patient shall be informed of his responsibility to comply with hospital rules, cooperate in the patient's own treatment, provide a complete and accurate medical history, be respectful of other patients, staff and property, and provide required information concerning payment of charges;

(o) every patient shall be informed in writing about the hospital's policies and procedures for initiation, review and resolution of patient complaints, including the address where complaints may be filed with the department;

(p) every patient shall be allowed to designate who may be permitted to visit during the hospital stay in accordance with the hospital policy; and

(q) every patient shall have freedom from physical or verbal abuse, harassment and inappropriate physical and chemical restraints;

(r) hospitals must be in compliance with CMS's patient rights condition of participation.

(2) The policies on patient rights and responsibilities shall also provide that patients who receive treatment for mental illness, or developmental disability, in addition to the rights listed herein, have the rights provided in section 43-1-6 NMSA 1978.

(3) Hospital staff assigned to provide direct patient care shall be informed of, and demonstrate their understanding of, the policies on patient rights and responsibilities through orientation and appropriate in-service training activities.

B. Movement of visitors: the hospital shall develop policies regarding the movement of visitors, which provide for infection control and patient privacy, but also allow the patient appropriate freedom as to the time, nature, and location of visit.

C. Use of volunteers:

(1) the scope of volunteer activities shall be delineated in hospital policies and procedures;

(2) volunteers may assist with patient care only under direct supervision of appropriate hospital personnel and after appropriate, documented in-service training; volunteers may not perform procedures permitted only by a licensed health care

provider;

(3) no volunteer under 16 years of age may assist with or render direct patient care.

D. Identification: the hospital shall develop a method to identify employees, patients, personnel records and patient files.

E. Cancer reporting: every hospital shall report to the tumor registry all malignant neoplasms that are diagnosed by the hospital and all malignant neoplasm's diagnosed elsewhere if the individual is subsequently admitted to the hospital; the report of each malignant neoplasm shall be made on a form prescribed or approved by the department and shall be submitted to the UNM tumor registry within six months after the diagnosis is made or within six months after the individual's first admission to the hospital if the neoplasm is diagnosed elsewhere, as appropriate; in this paragraph, "malignant neoplasm" means an in situ or invasive tumor of the human body, but does not include a squamous cell carcinoma or basal cell carcinoma arising in the skin.

F. Post - mortem examinations:

(1) the hospital shall have policies for notifying all personnel of special handling needs during post-mortem procedures;

(2) the hospital shall have policies for the release of a deceased human body to a funeral director or other authorized person.

G. Tagging of bodies: all deceased human bodies to be removed from a hospital shall be tagged by staff of the hospital; a red tag shall be used to indicate the possibility of the presence of the communicable or infectious disease or radioactive materials. If the body is in a container, a tag shall also be applied to the outside of the container.

H. Autopsy: reports are to be distributed to the primary provider and become part of the patient's clinical record.

I. Withholding of resuscitative services from patients;

(1) a policy shall be developed in consultation with the medical staff, nursing staff, and other appropriate bodies and shall be adopted by medical staff and approved by the governing body. The policy shall describe:

(a) a mechanism(s) for reaching decisions about the withholding of resuscitative services from individual patients;

(b) the mechanism(s) for resolving conflicts in decision making, should they arise;

(c) the roles of physicians and, when applicable, of nursing personnel, other appropriate staff, and family members in the decision to withhold resuscitative

services;

(d) provisions designed to assure that patients' rights are respected when decisions are made to withhold resuscitative services;

(e) a requirement that patients, or their legal representative(s), and family members must be afforded the opportunity to make their wishes known about decisions affecting the patient's end of life care;

(f) a requirement that appropriate orders be written by the physician or other licensed independent practitioners primarily responsible for the patient and that documentation be made in the patient's medical record.

(2) a decision to withhold resuscitative services does not absolve the hospital from providing basic patient care.

J. Anatomical gifts: a policy shall be adopted and implemented for organ and tissue donation in accordance with section 7.7.2.41 NMAC; the policy shall include procedures to assist the medical, surgical and nursing staff in identifying, evaluating and reporting potential organ and tissue donors.

K. Reporting: a policy for compliance with all applicable state and federal reporting requirements must be adopted and updated as necessary; such federal requirements include but are not limited to the New Mexico health policy commission, the national practitioner data bank and the healthcare integrity and protection data bank.

[7.7.2.19 NMAC - Rp, 7.7.2.19 NMAC, 06-15-04]

7.7.2.20 CHIEF EXECUTIVE OFFICER/ADMINISTRATOR:

A. Appointment. The hospital shall be directed by a chief executive officer/administrator. The chief executive officer/administrator shall be appointed by the governing body, shall be responsible for the management of the hospital and shall provide liaison among the governing body, medical staff, nursing services and other services of the hospital.

B. Qualification. The chief executive officer/administrator shall:

(1) be a college or university graduate from an accredited college or university, with three years of experience in a health care facility; or

(2) possess a college or university graduate degree in hospital, health care administration, or an advanced degree such as an MPH or an MBA with a health concentration; or

(3) have been hired and be acting in the capacity of the facility's chief executive officer/administrator before the effective date of these requirements.

C. Responsibilities. The

chief executive officer/administrator shall:

(1) keep the governing body fully informed about the quality of patient care, the management and financial status of the hospital, survey results and the adequacy of physical plant, equipment and personnel;

(2) organize the day-to-day functions of the hospital;

(3) establish formal means of staff evaluation and accountability on the part of subordinates to whom duties have been assigned;

(4) provide for the maintenance of an accurate, current and complete personnel record for each hospital employee;

(5) ensure that there is sufficient communication among the governing body, medical staff, nursing services and other services, hold interdepartmental and departmental meetings, where appropriate, attend or be represented at the meetings on a regular basis, and report to the governing body on the pertinent activities of the hospital;

(6) provide the department with any information required to document compliance with the Public Health Act, Section 24-1-1 et seq., NMSA 1978, and provide reasonable means for examining records and gathering the information;

(7) be responsible for the preparation of policies and procedures on the withholding of resuscitative services from patients.

[7.7.2.20 NMAC - Rp, 7.7.2.20 NMAC, 06-15-04]

7.7.2.21 EMPLOYEE HEALTH: The hospital shall have an employee health program under the direction of a physician, an authorized licensed independent practitioner or professional registered nurse, which shall include.

A. Post Hiring Health Screen. A post hiring health screening shall be required for all employees and persons who will have frequent and direct contact with patients. The assessment shall be completed and the results known prior to the assumption of duties by persons who will have direct contact with patients. The screening shall include:

(1) a health history, including a history of communicable diseases and immunizations;

(2) a PPD tuberculin skin test and, if necessary, a chest roentgenogram to determine whether disease is present, unless medically contra-indicated.

B. Health History for Volunteers. A health history of communicable diseases and immunizations shall be obtained prior to any volunteer assuming duties that involve direct patient care.

C. Protection against Rubella. Vaccination or confirmed immunity against rubella shall be required for

everyone who has direct contact with rubella patients, pediatric patients or female patients of childbearing age. No individual without documented vaccination against or immunity to rubella may be placed in a position in which he or she has direct contact with rubella patients, pediatric patients or female-patients of childbearing age.

[7.7.2.21 NMAC - Rp, 7.7.2.21 NMAC, 06-15-04]

7.7.2.22 INFECTION CONTROL.

A. Program. The hospital shall have an infection control program designed to reduce the number of infections, including nosocomial infections, within the hospital.

B. Program Approval.

(1) Purpose: The governing body or medical staff shall approve an infection control program to carry out surveillance and investigation of infections in the hospital and to implement measures designed to reduce these infections to the extent possible.

(2) Responsibilities: The infection control program shall:

(a) establish techniques and systems for discovering and isolating infections occurring in the hospital;

(b) establish written infection control policies and procedures which govern the use of aseptic technique and procedures in all areas of the hospital;

(c) establish a method of control used in relation to the sterilization of supplies and solutions. There shall be a written policy requiring identification of sterile items and specified time periods in which sterile items shall be reprocessed;

(d) establish policies specifying when employees or persons providing contractual services with infections or contagious conditions, including carriers of infectious organisms, shall be relieved from, or reassigned duties, until there is evidence that the disease or condition poses no significant risk to others;

(e) at least annually assess effectiveness of the infection control process; and

(f) establish effective guidelines for the disposition of infectious materials in accordance with the local, state and federal guidelines.

C. Education: The hospital shall provide training to all appropriate hospital personnel on the epidemiology, etiology, transmission, prevention and elimination of infection, as follows.

(1) Aseptic technique: All appropriate personnel shall be educated in the practice of aseptic techniques such as hand-washing and scrubbing practices, standard precautions, personal hygiene, masking and

dressing techniques, disinfecting and sterilizing techniques and the handling and storage of patient care equipment and supplies, to include the handling of needles and sharp instruments.

(2) Orientation and in-service: New employees shall receive appropriate orientation and on-the-job training, and all employees shall participate in a continuing in-service program. The participation shall be documented.

D. General Infection Control Provisions.

(1) There shall be regular inspection and cleaning of air intake sources, screens and filters, with special attention given to high risk areas of the hospital as determined by the infection control committee.

(2) A sanitary environment shall be maintained to avoid sources and transmission of infection.

(3) Proper facilities shall be maintained, and techniques used, for disposal of infectious wastes, as well as sanitary disposal of all other wastes.

(4) Hand-washing facilities shall be provided in patient care areas for the use of hospital personnel.

(5) Sterilizing services shall be available at all times.

(6) Soiled linen shall be contained and secured at the point generated. It can be transported to a designated area or cleaning facilities. No special precautions beyond the standard precautions are necessary. Soiled bed linen shall be placed immediately in a container available for this purpose and sent to the laundry promptly.

(7) Tuberculosis exposure control plan.

(a) A program to minimize the risk of infectious tuberculosis among or between health care workers, patients, or visitors and others shall be developed.

(b) This program shall include: a comprehensive facility-wide risk assessment, early identification, isolation, and treatment of potentially infectious tuberculosis patients, effective engineering controls to prevent the spread, and reduce the concentration of, infectious droplet nuclei, a written, respiratory protection program to protect health care workers from exposure, education, counseling, and screening processes for health care workers.

E. Reporting Disease: Hospitals shall report cases and suspected cases of reportable communicable disease to local public health offices and to the office of epidemiology in Santa Fe pursuant to New Mexico regulations governing the control of disease and conditions of public health significance, New Mexico department of health, 7 NMAC 4.3, [Recompiled as 7.4.3 NMAC] or any superceding regula-

tion.

F. There shall be written policies and procedures pertinent to care of patients with communicable diseases that shall include standard precautions.

(1) These policies and procedures shall be developed by administrative, medical, and nursing staff.

(2) The policies and procedures shall be applicable within the hospital, designed to ensure safe and adequate care to patients, safety to hospital employees, and consistent with applicable laws and regulations.

(3) Policies shall be made known to, and readily available to all hospital employees as well as the medical and nursing staff, and shall be followed in the care of patients, and shall be kept current by periodic review and revision.

[7.7.2.22 NMAC - Rp, 7.7.2.22 NMAC, 06-15-04]

7.7.2.23 Q U A L I T Y IMPROVEMENT:

A. Responsibility of the Governing Body: The governing body shall ensure that the hospital has a written quality improvement program for monitoring, evaluating and improving the quality of patient care and the ancillary services in the hospital on an on-going basis. The program shall promote the most effective and efficient use of available health facilities and services consistent with patient needs and professionally recognized standards of health care.

B. Responsibilities of the Chief Executive Officer/Administrator and the Chief of the Medical Staff. As part of the quality improvement program, the chief executive officer/administrator and chief of the medical staff shall ensure that:

(1) the hospital's quality improvement program is implemented and evaluated for effectiveness for all patient care and all services;

(2) the findings of the program are incorporated into a well defined method of assessing staff performance in relation to patient care and the provision of services; and

(3) program findings, actions and results of the hospital's quality improvement program are reported to the chief executive officer/administrator, chief of medical staff and governing body not less than annually.

C. Evaluation of Care to be Problem-Focused.

(1) Monitoring and evaluation of the quality of care given patients and services provided shall focus on identifying patient care problems and opportunities for improving patient care.

(2) Evaluation of care and services shall be problem-focused whenever serious events occur which have a major impact on patient care and services, or when the hospital receives a quality-of-care concern or complaint.

D. Evaluation of Care and Services to use variety of sources. The quality of care given patients shall be evaluated using a variety of data sources, including, but not limited to, medical records, hospital information systems, published research, literature comparison, peer review organization data, patient satisfaction findings, and when available, third party information.

E. Activities. Hospitals shall document how each of the monitoring and evaluation activities has produced data used to institute changes to improve quality of care or services and promote more efficient use of facilities and services. Quality improvement activities shall:

(1) emphasize identification and analysis of patterns of patient care and suggest possible changes for maintaining consistently high quality care and effective and efficient use of services;

(2) identify and analyze factors related to the patient care rendered in the facility and, where indicated, make recommendations to the governing body, chief executive officer/administrator and chief of the medical staff for changes that are beneficial to patients, staff, the facility and the community; and

(3) document the monitoring and evaluation activities performed and indicate how the results of these activities have been used to institute changes to improve the quality and a appropriateness of the care provided.

F. Evaluation of the program. The chief executive officer/administrator and chief of medical staff shall be involved in evaluation of the effectiveness of the quality improvement program which is evaluated by clinical and administrative staff at least once a year and that the results are communicated to the governing body.

[7.7.2.23 NMAC - Rp, 7.7.2.23 NMAC, 06-15-04]

7.7.2.24 UTILIZATION MANAGEMENT:

A. Plan: Every hospital shall have in operation a written utilization management plan designed to ensure that quality patient care is provided in the most appropriate manner. The plan should address potential over and under utilization as well as the efficient use of resources for patients.

(1) Description of Plan. The written utilization management plan shall include at a minimum at least the following:

(a) a delineation of the responsibilities and authority of those involved in the performance of utilization management activities, including utilization management personnel, administrative personnel, and, when applicable, any qualified outside organization contracting to perform review activities specified in the plan;

(b) a conflict of interest statement stating that reviews may not be conducted by any person who has a proprietary interest in any hospital or by any person who was professionally involved in the care of the patient whose case is being reviewed;

(c) a confidentiality policy applicable to all utilization management activities, including any findings and recommendations;

(d) a description of the process by which the hospital identifies and resolves utilization related problems, including the appropriateness and medical necessity of admissions, continued stays, and supportive services, as well as delays in the provision of supportive services; and

(e) the following activities shall be incorporated into the process: analysis of profiles and patterns of care, feedback of results of profile analysis to the medical staff, documentation of specific actions taken to correct aberrant practice patterns or other utilization management problems, and evaluation of the effectiveness of action taken.

(2) The plan must include the procedures for conducting review, including the time period within which the review is to be performed following admission and in assigning continued stay review dates.

(3) A mechanism for the provision of discharge planning as set forth under these requirements must be included.

(4) Responsibility for performance. The plan shall be approved by the medical staff, administration and governing body. Hospital administration shall assure the effective implementation of the plan.

B. Conduct of Review.

(1) Written measurable criteria that have been approved by the medical staff shall be utilized when performing reviews.

(2) Non-physician health care professionals may participate in the development of review criteria and conduct of review relative to services provided by their peers.

(3) Determinations regarding the medical necessity and appropriateness of care provided shall be based upon information documented in the medical record. The medical staff member primarily responsible for the patient's care shall be notified whenever it is determined that an admission or continued stay is not medically necessary, and shall be afforded the opportunity to

present his or her own views before a final determination is made. At least two medical staff members shall make a determination when the medical staff member primarily responsible for the patient's care disagrees.

(4) Different rules may apply to beneficiaries of, or enrollees in, plans which provide medicare or medicaid services. If the hospital is a member of, or has a contractual relationship with, a risk bearing entity, and such risk bearing entity has a contract with CMS or with the New Mexico medicaid authority (single state agency), then the applicable federal or state requirements shall apply to enrollees under such a plan.

(5) Written notice of any decision that an admission or continued stay is not medically necessary shall be given to the appropriate hospital department, the medical staff member primarily responsible for care of the patient and the patient no later than 72 hours after the determination.

C. Records and Reporting: Records shall be kept of hospital utilization management recommendations made to the medical staff and to the governing body as necessary. Recommendations relevant to hospital operations or administration shall be reported to administration.

[7.7.2.24 NMAC - Rp, 7.7.2.24 NMAC, 06-15-04]

7.7.2.25 MEDICAL STAFF:

A. General Requirements:

(1) Organization and accountability: The hospital shall have a medical staff organized under by-laws approved by the governing body. The medical staff shall be responsible to the governing body of the hospital for the quality of all medical care provided patients in the hospital and for the ethical and professional practices of its members.

(2) Responsibility of members: Members of the medical staff shall comply with medical staff and hospital policies. The medical staff by-laws shall prescribe disciplinary procedures for infraction of hospital and medical staff policies by members of the medical staff. There shall be evidence that the disciplinary procedures are applied where appropriate.

B. Membership.

(1) Active Staff: A hospital shall have an active medical staff, which performs all the organizational duties pertaining to the medical staff. Active staff membership shall be limited to individuals, as defined in Subsection AG of 7.7.2.7 NMAC of these requirements, who are currently licensed. Individuals may be granted membership in accordance with the medical staff

by-laws and rules, and in accordance with the by-laws of the hospital.

(2) Other staff: The medical staff may include one or more categories defined in the medical staff by-laws in addition to the active staff.

C. Appointment.

(1) Governing body responsibilities:

(a) medical staff appointments shall be made by the governing body, taking into account recommendations made by the active medical staff;

(b) the governing body shall biennially ensure that members of the medical staff are qualified legally and professionally for the position to which they are appointed;

(c) the hospital, through its medical staff, shall require applicants for medical staff membership to provide, in addition to other medical staff requirements, a complete list of all hospital medical staff memberships held within five years prior to application; and

(d) hospital medical staff applications shall require reporting any malpractice action, any previously successful and currently pending challenges to licensure in this or another state, and any loss or pending action affecting medical staff membership or privileges at another hospital.

(2) Medical staff responsibilities:

(a) to select its members and delineate their privileges, the hospital medical staff shall have a system, based on specific standards for evaluation of each applicant by a credentials committee, which makes recommendations to the medical staff and to the governing body; and

(b) the medical staff may include one or more categories of medical staff defined in the medical staff by-laws in addition to the active medical staff, but this in no way modifies the duties and responsibilities of the active staff.

D. Criteria for appointment.

(1) Criteria for selection shall include the individual's current licensure, health status, professional performance, judgment and clinical and technical skills.

(2) All qualified candidates shall be considered by the credentials committee.

(3) Re-appointments shall be made at least biennially and recorded in the minutes or files of the governing body. Reappointment policies shall provide for a periodic appraisal of each member of the staff, including consideration at the time of reappointment of information concerning the individual's current licensure, health status, professional performance, judgment and clinical and technical skills. Recommendations for re-appointments shall be noted in the minutes of the meetings of the appropriate committee.

(4) Temporary staff privileges may be granted for a limited period if the individual is qualified for membership on the medical staff.

(5) A copy of the scope of privileges to be accorded the individual shall be distributed to appropriate hospital staff. The privileges of each staff member shall be specifically stated or the medical staff shall define a classification system. If a system involving classifications is used, the scope of the categories shall be well defined, and the standards that must be met by the applicant, shall be clearly stated for each category.

(6) If other categories of staff membership are to be established for allied health personnel, the necessary qualifications, privileges and rights shall be delineated in accordance with the medical staff by-laws.

E. Consultations.

(1) The medical staff must have established policies concerning the holding of consultations.

(2) Except in an emergency, consultations are required when:

(a) the patient is not a good medical or surgical risk;

(b) the diagnosis is obscure;

(c) there is doubt as to the best therapeutic measures to be utilized; or

(d) when the patient, or legally authorized person, requests such consultation.

(3) Consultations must be included in the medical record. When operative procedures are involved, the consultation note, except in an emergency, shall be recorded prior to the operation.

(4) The patient's physician or authorized licensed independent practitioner is responsible for requesting consultations when indicated. It is the duty of the medical staff to make certain that members of the medical staff contact consultants as needed.

F. By-Laws.

(1) Adoption and Purpose: By-laws shall be adopted by the medical staff and approved by the governing body to govern and enable the medical staff to carry out its responsibilities. The by-laws of the medical staff shall be a precise and clear statement of the policies under which the medical staff regulates itself.

(2) Content: Medical staff by-laws and rules shall include:

(a) a descriptive outline of the medical staff organization;

(b) a statement of the necessary qualifications which each member must possess to be privileged to work in the hospital, and of the duties and privileges of each category of medical staff;

(c) a procedure for granting or

withdrawing privileges to each member; and an appeal process for privilege withdrawal or refusal;

(d) a mechanism for appeal of decisions regarding medical staff membership and privileges;

(e) provision for regular meetings of the medical staff;

(f) provision for keeping timely, accurate and complete records;

(g) provisions for routine examination of all patients upon admission and recording of the preoperative diagnosis prior to surgery;

(h) a stipulation that a surgical operation is permitted only with the consent of the patient or legally authorized person except in emergencies;

(i) statements concerning the request for the performance of consultations, and instances where consultations are required; and

(j) a statement specifying categories of personnel duly authorized to accept and implement medical staff orders.

G. Governance.

(1) The medical staff shall have the numbers and kinds of officers necessary for the governance of the staff.

(2) Officers shall be members of the active staff and shall be elected by the active medical staff.

H. Meetings.

(1) Number and frequency: The number and frequency of medical staff meetings shall be determined by the active medical staff and clearly stated in the by-laws of the medical staff. At a minimum the executive committee of the medical staff shall meet at least quarterly.

(2) Attendance: Attendance records shall be kept of medical staff meetings. Attendance requirements for each individual member shall be clearly stated in the by-laws of the medical staff.

(3) Purpose: Full medical staff meetings shall be held to conduct the general business of the medical staff and to review the significant findings identified through the quality improvement program.

(4) Minutes: Minutes of all meetings shall be kept.

I. Committees.

(1) Establishment: The medical staff shall establish committees of the medical staff and is responsible for their performance.

(2) Executive committee: The medical staff shall have an executive committee to coordinate the activities and general policies of the various departments, act for the staff as a whole under limitations that may be imposed by the medical staff bylaws, and receive and act upon the reports of all other medical staff committees.

J. Administrative

Structure: Hospitals may create services to fulfill medical staff responsibilities. Services are responsible for the quality of care rendered to patients under their care. [7.7.2.25 NMAC - Rp, 7.7.2.25 NMAC, 06-15-04]

7.7.2.26 NURSING SERVICES:

A. Requirement: The hospital shall provide a 24-hour nursing service, supervised by a professional registered nurse, and have a licensed practical nurse or professional registered nurse on duty at all times.

B. Administration.

(1) The nursing services shall be directed by a professional registered nurse with appropriate education and experience to direct the service. A professional registered nurse with administrative authority shall be designated to act in the absence of the director of the nursing services. Appropriate administrative staffing shall be provided on all shifts.

(2) There shall be a written plan showing the flow of authority throughout the nursing service, with delineation of the responsibilities and duties of each category of nursing staff.

(3) The delineation of responsibilities and duties for each category of the nursing staff shall be in the form of a written job description for each category.

C. Staffing.

(1) An adequate number of professional registered nurses shall be on duty at all times to meet the nursing care needs of the patients. There shall be qualified supervisory personnel for each service or unit to ensure adequate patient care management.

(2) The number of nursing personnel for all patient care services of the hospital shall be consistent with the nursing care needs of the hospital's patients.

(3) The staffing pattern shall ensure the availability of professional registered nurses to assess, plan, implement and direct the nursing care for all patients on a 24-hour basis.

D. Patient Care.

(1) Care planning:

(a) All nursing care shall be planned and directed by professional registered nurses. A professional registered nurse shall be on duty and immediately available to give direct patient care when needed.

(b) A professional registered nurse shall be available at all times to render direct care in the facility.

(2) Care determinants:

(a) A professional registered nurse shall assign the nursing care of each patient to other nursing personnel in accor-

dance with the patient's needs and the preparation and competence of the available nursing staff.

(b) The ratio of licensed nursing personnel to patients shall be determined by the acuity of patients, the patient census, and complexity of care that must be provided.

(c) A professional registered nurse shall plan, supervise and evaluate the care of all patients, including the care assigned to licensed practical/vocational nurses and non-licensed care givers.

(d) There shall be other nursing personnel in sufficient numbers to provide nursing care not requiring the services of a professional registered nurse.

(3) Special care units: Areas providing specialized nursing care shall be well defined by policies and procedures specific to the nursing services provided. These areas may include, but shall not be limited to, intensive care, coronary care, obstetrics, nursery, renal units, burn units, and emergency rooms.

(a) Specific policies and procedures shall supplement basic hospital nursing policies and procedures. Nursing policies and procedures of special care units shall keep pace with best practice and new knowledge and shall include but not be limited to: protocols for resuscitation and disaster situations, immediate availability of emergency equipment and drugs, appropriate and safe storage of pharmaceuticals and biologicals, programs for maintenance and safe operation of all equipment, appropriate infection-control measures, control of visitors and non-essential personnel, and documentation of quality improvement.

(b) Special-care unit nursing services shall be integrated with other hospital departments and services.

(c) Supervision of nursing care in the unit shall be provided by a professional registered nurse with relevant education, training, experience, and demonstrated current competence.

(d) All nursing personnel shall be prepared for their responsibilities in the special-care unit through appropriate orientation, ongoing in-service training, and continuing education programs. Each hospital shall have a planned, formal training program for all nurses and shall be of sufficient duration and substance to cover all patient-care responsibilities in the special care unit.

E. Staff Qualifications.

(1) Individuals selected for the nursing staff shall be qualified by education, experience, and current competence for the positions to which they are appointed.

(2) The education and experience qualifications of the director of nursing supervisors, and other medical profession-

als shall be commensurate with the scope and complexity of the services of the hospital.

(3) The functions and qualifications of nursing personnel shall be clearly defined in relation to the duties and responsibilities delegated to them.

(4) Personnel records, including application forms and verifications of current licensure and credentials, shall be on file.

(5) Nursing management shall make decisions about the selection and promotion of nursing personnel based on their qualifications and capabilities and shall recommend the termination of employment when necessary.

(6) Approval: There shall be a policy and procedure to ensure that hospital nursing personnel for whom registration, a license or other approval is required by law shall have valid and current registration, licensure or other approval.

F. Evaluation and Review of Nursing Care: There shall be a review and evaluation of the nursing care provided for patients. There shall be written nursing care procedures and plans of care.

(1) Responsible staff: A licensed professional registered nurse shall plan, supervise, and evaluate the nursing care for each patient.

(2) The director of nursing is responsible for the effective use of care plans by the nursing staff.

(3) Nursing care plan: Nursing care plans shall be kept current. Plans shall indicate nursing care needed, how it is to be accomplished, and methods, approaches, and modifications necessary to obtain best results for patients.

(4) Nursing notes: Nursing notes shall be legible, informative and descriptive of the nursing care given and include information and observations of significance so that they contribute to the continuity of patient care.

G. Orientation and In-Service.

(1) There shall be a comprehensive and thorough employee orientation program for all nursing services personnel.

(2) The facility shall provide orientation to nursing services personnel before they provide care to patients.

H. Hospital Relationships.

(1) General: The nursing service shall have well-established working relationships with the medical staff and with other hospital staff that provide and contribute to patient care.

(2) Policies: Written policies and procedures affecting nursing services shall be developed and reviewed with the participation of the director of nursing or

designee, in consultation with other appropriate health professionals and administration. The governing body shall approve the policies. The nursing service shall be represented on hospital committees that affect patient care policies and practices.

I. Documentation, Staff Meetings and Evaluation.

(1) Nursing care policies and procedures that reflect optimal standards of nursing practice shall be written and approved, and shall be reviewed and revised as necessary to keep pace with current knowledge. Written nursing care policies and procedures shall be available on each nursing unit.

(2) There shall be a written nursing care plan for each patient, which shall include the elements of assessment, planning, intervention and evaluation.

(3) Documentation of nursing care shall be pertinent and concise and shall describe patient status needs, problems, capabilities and limitations. Nursing intervention and patient response shall be noted.

(4) Meetings of the nursing staff shall be held at least once every two months to discuss patient care, nursing services problems and administrative policies. Minutes of all meetings shall be kept and shall be available to all staff members.

(5) The nursing services director shall ensure that there is ongoing review and evaluation of the nursing care provided for patients and shall assure that nursing care standards and objectives are established and met. If the nursing department is decentralized into clinical departmental services or clinical programs are established, there shall be one administrator to whom the nursing directors shall be accountable and who has the responsibility to assure one standard of nursing practice within the organization.

J. Additional Patient Care Requirements.

(1) In this subsection, "circulating nurse" means a professional registered nurse who is present during an operation to provide emotional support to the patient, assist with the anesthesia induction, and throughout the surgical procedure or delivery, coordinate the activities of the room, monitor the traffic in the room, maintain an accurate account of urine and blood loss, and who, before the surgical procedure or delivery is completed, informs the recovery rooms of special needs and ensures that the sponge, needle and instrument counts have been done according to hospital policy.

(2) Obstetrical: Every patient admitted in labor shall be assessed initially by a professional registered nurse or physician.

(3) Surgical:

(a) A professional registered

nurse shall supervise the operating room(s).

(b) A qualified professional registered nurse shall function as the circulating nurse in the surgical and obstetrical room whenever general anesthesia is used and on all local anesthesia cases involving a high degree of patient risk. Individual surgical technologists and licensed practical nurses may function as assistants under the direct supervision of a qualified professional registered nurse.

(4) Temporary nursing personnel:

(a) When contract nursing personnel from outside registries or agencies are used by the hospital, the nursing services shall have a means for evaluating the credentials and competence of these personnel. Contract nursing personnel shall function under the direction and supervision of a qualified professional registered nurse from the hospital nursing staff. The temporary nursing personnel shall have an orientation to the facility.

(b) If private duty nursing personnel are employed by the patients, the nursing department shall ensure the private duty nursing agency has a means for evaluating the credentials and competence of these personnel. The hospital shall have policies regarding use of these personnel in the facility.

(5) Medications: Only the following shall be permitted in accordance with the Nurse Practice Act and the requirements of the board of nursing:

(a) a professional registered nurse may pass medications;

(b) a licensed practical nurse or a student nurse in an approved school of nursing under the supervision of a licensed professional registered nurse may pass medications;

(c) medications may not be prepared by nursing personnel on one shift for administration during succeeding shifts; and

(d) medication administration may not be delegated to unlicensed personnel;

(6) Reporting: The hospital shall have effective policies and procedures for reporting transfusion reactions, adverse drug reactions, accidents and medication errors. The medical staff shall review summary reports of these reactions, accidents and errors at least quarterly.
[7.7.2.26 NMAC - Rp, 7.7.2.26 NMAC, 06-15-04]

7.7.2.27 DIETARY SERVICES: The hospital shall provide a 24-hour dietary service or contract for a 24-hour dietary services which meets the requirements of this section, and which shall provide meals and other nutritional care to its patients. The dietary service shall

be integrated with other services of the hospital.

A. Administrative.

(1) There shall be written policies and procedures for food storage, preparation and service and clinical aspects developed by the dietitian.

(2) There shall be a qualified person serving as full-time director of the service who shall be responsible for the daily management aspects of the service.

(3) The dietitian shall participate in the nutritional aspects of patient care by means that include assessing the nutritional status of patients, instructing patients, recording diet histories, interpreting and integrating therapeutic principles, participating appropriately in patient rounds and conferences, and recording in medical records and sharing specialized knowledge with others on the medical team.

(4) There shall be written job descriptions for all dietary employees.

(5) The dietitian shall be responsible for maintaining a current diet manual for therapeutic diets, approved jointly by the dietitian and a qualified member of the medical staff. The dietetic manual shall be developed on recognized current therapeutic practices. The dietitian shall recommend this manual to a qualified member of the medical staff for approval for use in the facility. All changes must be submitted to a qualified member of the medical staff for approval prior to inclusion in the manual.

(6) There shall be an in service training program for dietary employees which shall include instruction in proper storage, preparation and serving food, safety, appropriate personal hygiene and infection control.

(7) A menu cycle shall be available and posted. Substitutions of equal nutritional value are acceptable and shall be noted. The hospital must keep for 30 days a record of each menu as served.

(8) A hospital that contracts for its dietary services shall be in compliance with this section if the contracted services meets all applicable rules of this section.

B. Facilities.

(1) Adequate facilities shall be provided to meet the dietary needs of the patients.

(2) Sanitary conditions shall be maintained for the storage, preparation and distribution of food.

(3) All dietary areas shall be appropriately located, adequate in size, well-lighted, ventilated and maintained in a clean and orderly condition.

(4) Equipment and work areas shall be clean and orderly. Effective procedures for cleaning and sanitizing all equipment and work areas shall be followed consistently to safeguard the health of the

patients, staff and visitors.

(5) Lavatories specifically for hand-washing shall include hot and cold running water, soap, and disposable towels or air dryers, and shall be conveniently located throughout the service area for use by dietary staff.

(6) The dietary service shall have written reports of the most recent environmental or licensing inspection on file at the hospital with notation made by the hospital of action taken to comply with recommendations or citations.

(7) Dry or staple food items shall be stored off the floor in a ventilated room which is not subject to sewage or waste water back-flow or contamination by condensation, leakage, rodents or vermin.

(8) All perishable foods shall be refrigerated and the temperature maintained at, or below, 40 degrees fahrenheit.

(9) Hot food shall be maintained at 140 degrees fahrenheit, or higher.

(10) Foods being displayed or transported shall be protected from environmental contamination and maintained at proper temperatures in clean containers, cabinets or serving carts.

(11) Dishwashing procedures and techniques shall be well-developed and understood by the responsible staff, with periodic monitoring of: The operation of the detergent dispenser, washing, rinsing, and sanitizing temperatures and the cleanliness of machine and jets, and thermostatic controls.

(12) A daily log of recorded temperatures for all refrigerators, freezers, steam tables and dishwashers must be maintained and available for inspection for 30 days.

(13) All garbage and kitchen refuse not disposed of through a garbage disposal unit shall be kept in watertight containers with close-fitting covers and disposed of daily in a safe and sanitary manner.

(14) Food and non-food supplies shall be clearly labeled and dated and shall be stored in separate areas.

(15) No hazardous non-food items shall be stored in the proximity of materials that could compromise the safety of the food supply.

(16) The dietitian shall be responsible for, and active in, the hospital's quality improvement program.

C. Records.

(1) A systematic record shall be maintained of all diets.

(2) Therapeutic diets shall be prescribed by an authorized individual in written orders on the medical record.

(3) Nutritional needs shall be in accordance with physicians' orders and, to the extent medically possible, in accordance with the "recommended daily dietary

allowance" of the food and nutrition board of the national research council, national academy of sciences. A current edition of these standards shall be available in the dietary service.

(4) The qualified staff person who instructs the patient in home diet shall document this in the medical record.

D. Sanitation. All practices shall be in accordance with the standards of the New Mexico environment department.

(1) Kitchen sanitation.

(a) Equipment and work areas shall be clean and orderly. Surfaces with which food or beverages come into contact shall be of smooth, impervious material free of open seams, not readily corrodible and easily accessible for cleaning.

(b) Utensils shall be stored in a clean, dry place protected from contamination.

(c) The walls, ceiling and floors of all rooms in which food or drink is stored, prepared or served shall be kept clean and in good repair.

(2) Washing and sanitizing of kitchenware.

(a) All reusable tableware and kitchenware shall be cleaned in accordance with procedures as outlined by the New Mexico environment department, which shall include separate steps for pre-washing, washing, rinsing and sanitizing.

(b) Dishwashing procedures and techniques shall be well-developed, understood by dishwashing staff and carried out according to policy. To make sure that service ware is sanitized and to prevent recontamination, correct temperature maintenance shall be monitored during cleaning cycles.

(3) Canned or preserved foods.

(a) All processed food shall be procured from sources that process the food under regulated quality and sanitation controls. This does not preclude the use of local fresh produce.

(b) The hospital may not use home-canned foods.

(4) Cooks and food handlers. Cooks and food handlers shall wear clean outer garments and hair nets or caps and gloves as needed, and shall keep their hands clean at all times when engaged in handling food, drink, utensils or equipment. Food handlers must obtain a tuberculosis test, prior to employment and as often as required thereafter according to hospital policy.

(5) Milk.

(a) Raw milk shall not be used.

(b) Milk for drinking shall be grade A pasteurized whole milk (3 1/4%) milk fat or greater and not less than (8 1/4% milk solids, not fat) or any other grade A fluid milk product as defined in the New

Mexico Restaurant Act (includes skim milk, low-fat milk, and cream products) unless otherwise requested by the patient or as a part of a therapeutic diet.

(c) Condensed, evaporated, and/or dried milk products which are recognized nationally, may be employed as "additives" in cooked food preparation but shall not be substituted or served to patients (adult, child, or infant) in place of milk as approved for drinking purposes. These products shall be handled and stored in accordance with the requirements of the current dietary practices.

[7.7.2.27 NMAC - Rp, 7.7.2.27 NMAC, 06-15-04]

7.7.2.28 PHARMACY SERVICES:

A. Organization.

(1) Pharmacy: The hospital pharmacy shall be supervised by a designated pharmacist-in-charge who is employed part-time or full-time. If employed part-time, the pharmacist shall visit the facility at least every 72 hours.

(2) Other storage: If there is no pharmacy, pre-labeled, prepackaged medications shall be stored in, and distributed from, an automated medication management system, which is under the supervision of the pharmacist-in-charge.

(3) Pharmacist accountability: The pharmacist-in-charge shall have appropriate administrative oversight and shall prepare a pharmacy policy and procedure manual that shall be reviewed and updated at least annually.

B. Facility.

(1) Space & Equipment: The pharmacy shall meet the space and equipment requirements specified by the New Mexico board of pharmacy.

(2) Security: The pharmacist shall control access to the pharmacy and any automated medication system devices. Established procedures shall assure accountability for all doses of drugs removed when the pharmacist is not present. Only a designated licensed nurse may remove drugs from the pharmacy when the pharmacist is not present.

(3) Drug preparation areas: All drug storage and preparation areas within the facility shall be the responsibility of the pharmacist and inspected at least monthly.

(4) Pharmacy policies and procedures should address practices to be followed when compounding, reconstituting, and repackaging medications to assure adherence to professional standards of practice for cleanliness and infection control.

(5) Schedule II controlled substance storage: Schedule II controlled substances that are stored in the pharmacy shall be stored in a separate locked storage.

C. Personnel.

(1) The pharmacist shall be assisted by an adequate number of competent and qualified personnel. Job descriptions for all categories shall be prepared and revised as necessary.

(2) A pharmacist shall be on call during all absences of the designated pharmacist from the facility.

D. Records. Hospital pharmacies shall maintain all dangerous drug distribution records that are required by applicable state and federal laws and regulation, including:

(1) Floor stock dangerous drug description records; and

(2) Inpatient dangerous drug description records.

(a) Schedule II controlled substance distribution records must be kept separate.

(b) Schedule III-V controlled substance distribution records must be readily retrievable.

(c) An annual inventory of Schedule II-V controlled substances shall be conducted and a record maintained along with the procurement records for these drugs.

(d) When automated drug distribution systems are utilized, they shall produce transaction records that meet the above records keeping requirement.

(e) The pharmacist shall maintain records of quality improvement monitoring of automated drug distribution systems.

E. Other Responsibilities of the Pharmacist.

(1) When limited doses of a drug are removed from the pharmacy when the pharmacist is not present:

(a) The pharmacist shall verify the withdrawal within 72 hours of the withdrawal.

(b) A drug regimen review, pursuant to a new medication order, will be conducted by a pharmacist, either on-site or by electronic transmission, within 24 hours of the new order.

(2) The pharmacist also shall:

(a) provide drug information to staff and patients of the facility;

(b) maintain current drug use reference manuals;

(c) provide and document in-service education to the facility's professional staff;

(d) in conjunction with the practitioners, nurses, and other professional staff, review significant adverse drug reactions; and

(e) review each medication order for safety and appropriateness and communicate with the prescribers when indicated.

[7.7.2.28 NMAC - 7.7.2.28 NMAC, 06-15-04]

**7.7.2.29 M E D I C A L
RECORDS SERVICES:**

A. Medical Record. A medical record shall be maintained for every patient admitted for care in the hospital. The record shall be kept confidential and released only in accordance with the Sections 14-6-1, 14-6-2 NMSA 1978 and, where appropriate, Section 43-1-19 NMSA 1978.

B. Service. The hospital shall have a medical records service with administrative responsibility for all medical records maintained by the hospital.

(1) Confidentiality:

(a) Written consent of the patient or legally authorized person shall be required for release of medical information to persons not otherwise authorized to receive this information.

(b) Original medical records may not be removed from the hospital except by authorized persons who are acting in accordance with a court order, and where measures are taken to protect the record from loss, defacement, tampering and unauthorized access.

(2) Preservation: There shall be a written policy for the preservation of medical records. The retention period shall be for 10 years following the last treatment date of the patient, except in the case of minor children whose records shall be retained to the age of majority, plus one year.

(a) Laboratory test records and reports may be destroyed one year after the date of the test recorded or reported therein provided that one copy is placed in the patient's record, or stored electronically in the hospital's information system. The hospital is responsible for electronic storage.

(b) X-ray films may be destroyed four years after the date of exposure, if there are in the hospital record written findings of a radiologist who has read such x-ray films. At anytime after the third year after the date of exposure, and upon proper identification, the patient may recover his own x-ray films as may be retained pursuant to this section. The written radiological findings shall be retained as provided by these requirements.

(3) Personnel:

(a) Adequate numbers of personnel who are qualified to supervise and operate the service shall be provided.

(b) A registered medical records administrator or an accredited records technician shall head the services, except that if such a professionally qualified person is not in charge of medical records, a consultant who is a registered records administrator or an accredited records technician shall organize the service, train the medical records personnel and make at least quarterly visits to the hospital to evaluate the records and the operation of the service, and

prepare written reports of findings within 30 days.

(c) In this subdivision, "a registered record administrator" or an "accredited record technician" is an individual who has successfully completed the examination requirements of the American Medical Record Association.

(4) Availability:

(a) The system for identifying and filing records shall permit prompt retrieval of each patient's medical records.

(b) A master patient index shall include at least the patient's full name, sex, birth date and medical record number and/or reference to treatment dates.

(c) Filing equipment and space shall be adequate to maintain the records and facilitate retrieval.

(d) The inpatient, ambulatory care and emergency records of patients shall be kept in such a way that all patient care information can be provided for patient care when the patient is admitted to the hospital, when the patient appears for a pre-scheduled outpatient visit, or as needed for emergency services.

(e) Pertinent medical record information obtained from other providers shall be available to facilitate continuity of the patient's care.

(f) The original or legally reproduced form of all clinical information pertaining to a patient's stay shall be filed in the medical record folder as a unit record. When this is not feasible a system must be in place to provide prompt retrieval of all medical records when a patient is admitted.

(5) Coding and indexing:

(a) Records shall be coded and indexed according to diagnosis, operation and physician indexing shall be kept current within six months from the discharge of the patient.

(b) Any recognized system may be used for coding diagnoses, operations and procedures.

(c) The indices shall list all diagnoses for which the patient was treated during the hospitalization and the operations and procedures which were performed during the hospitalization.

C. Medical Record Contents. The medical record staff shall ensure that each patient's medical records contain:

(1) accurate and adequate patient identification data;

(2) a concise statement of complaints, including the chief complaint which led the patient to seek medical care and the date of onset and duration of each;

(3) a health history, containing a description of present illness, past history of illness and pertinent family and social history to be made part of the record within the

first 24 hours after admission;

(4) a statement about the results of the physical examination, including all positive and negative findings resulting from an inventory of systems;

(5) the provisional diagnosis;

(6) all diagnostic and therapeutic orders;

(7) all clinical laboratory, x-ray reports and other diagnostic reports;

(8) consultation reports containing a written opinion by the consultant that reflects, when appropriate, an actual examination of the patient and the patient's medical records;

(9) except in an emergency, a current, thorough history and physical work-up shall be recorded in the medical record of every patient prior to surgery;

(10) an operative report describing techniques and findings written or dictated immediately after surgery. The completed operative report is authenticated by the surgeon and filed in the medical record as soon as possible after surgery or available electronically in the hospital information system. When the operative report is not placed in the medical record immediately after surgery, a progress note is entered immediately;

(11) a post operative documentation record of the patient's discharge from the post anesthesia care area;

(12) tissue reports, including a report of microscopic findings if hospital policies require that microscopic examination be done. If only microscopic examination is warranted, a statement that the tissue has been received and a microscopic description of the findings shall be provided by the laboratory and filed in the medical record;

(13) progress notes providing a chronological picture of the patient's progress sufficient to delineate the course and the results of treatment;

(14) a definitive final diagnosis including all relevant treatment and operative procedures performed expressed in the terminology of a recognized system of disease nomenclature;

(15) a discharge summary including the final diagnosis, the reason for hospitalization, the significant findings, the procedures performed, the condition of the patient on discharge and any specific instructions given the patient and/or family. A final progress note is acceptable when stay is less than [48 hours and in case of normal newborn infants and uncomplicated obstetrical deliveries;

(16) autopsy findings when an autopsy is performed; and

(17) for comprehensive inpatient programs the following information shall be present as well: rehabilitation evaluation

including medical, psycho-social history and physical exam; rehabilitation plans including goals for treatment; documentation of patient care conferences held minimally every two weeks, or as indicated, by appropriate disciplines involved in the care and treatment of the patient, in which the patient's treatment and response to rehabilitation services shall be evaluated and modified as indicated.

D. Authentication. Only members of the hospital staff or other professional personnel authorized by the hospital shall record and authenticate entries in the medical record. Documentation of medical staff participation in the care of the patient shall be evidenced by at least:

(1) the signature on the patient's health history as the required by medical staff by-laws and results of his or her physical examination;

(2) periodic progress notes or countersignatures as defined by the hospital rules and regulations;

(3) the surgeon's signature on the operative report; and

(4) the signature as required by medical staff by-laws on the face sheet and discharge summary.

E. Completion.

(1) Current records and those on discharged patients shall be completed promptly.

(2) If a patient is readmitted within 30 days for the same or related condition, there shall be a reference to the previous history with an interval note, and any pertinent changes in physical findings shall be recorded.

(3) All records of discharged patients shall be completed within a reasonable period of time specified in the medical staff by-laws, but not to exceed 30 days after discharge, excepting autopsy reports.

F. Maternity Patient Records.

(1) Prenatal findings: Except in an emergency, before a maternity patient may be admitted to a hospital, a legible copy of the prenatal history shall be submitted to the hospital's obstetrical staff. The prenatal history shall note complication, Rh determination and other matters essential to adequate care.

(2) Maternal medical record: Each obstetric patient shall have a complete hospital record which shall include:

(a) patient identification, prenatal history and findings;

(b) the labor and delivery record, including anesthesia;

(c) medicine and treatment sheet, including nursing notes;

(d) any laboratory and x-rays reports;

(e) any medical consultant's

notes; and

(f) an estimate of blood loss

G. Newborn Medical Records. Each newborn patient shall have a complete hospital record which shall include:

(1) a record of pertinent material data, type of labor and delivery, and the condition of the infant at birth;

(2) a record of physical examinations;

(3) progress sheets to include medicine, treatment, weights, feeding and temperatures; and

(4) the notes of any medical consultant.

H. Fetal Death. In the case of a fetal death, the weight and length of the fetus shall be recorded on the delivery record.

I. Authentication of all entries.

(1) Documentation.

(a) All entries in medical records by hospital staff and medical staff shall be legible, permanently recorded, dated and authenticated with the name and title of the person making the entry.

(b) All orders shall be recorded and authenticated. All verbal and telephone orders shall be authenticated by the prescribing practitioner, or a practitioner authorized to sign on behalf of the prescribing physician, in writing within 72 hours.

(c) A rubber stamp reproduction of a person's signature or an electronic signature may be used instead of a handwritten signature, if: the stamp is used only by the person whose signature the stamp replicates, the facility possesses a statement signed by the person, certifying that only that person(s) shall possess and use the stamp.

(2) Symbols and abbreviations: Symbols and abbreviations may be used in medical records if approved by a written facility policy, which defines the symbols and abbreviations and controls their use. There shall be only one meaning per symbol.

[7.7.2.29 NMAC - Rp, 7.7.2.29 NMAC, 06-15-04]

7.7.2.30 LABORATORY SERVICES:

A. Services and Facilities.

(1) The extent and complexity of laboratory services shall be commensurate with the size, scope, and nature of the hospital and the needs of the medical staff.

(2) Necessary space, facilities and equipment to perform both the basic minimum and all other services shall be provided by the hospital either on-site or by contracts and services.

(3) All equipment shall be made to carry out adequate clinical laboratory examinations and services, as appropriate for the care of the patients. In the case of work performed, the original report or a legally reproduced copy of the report from the laboratory shall be contained in the medical record.

B. Availability.

(1) Laboratory services shall be available at all times, and there shall be a sufficient number of qualified laboratory testing personnel and support staff to perform promptly and efficiently the tests required of the pathology and medical laboratory services.

(2) Adequate provision shall be made for ensuring the availability of emergency laboratory services, either in the hospital or under arrangements with another laboratory. These services shall be available twenty-four (24) hours a day, seven days a week, including holidays.

(3) A hospital that has contracted for laboratory services is in compliance with this paragraph if the contracted services have a current CLIA certificate at the appropriate level of testing.

C. Personnel.

(1) A qualified medical technologist shall be a graduate of a medical technology program approved by a nationally recognized body or has documented equivalent education, training, and/or experience; a qualified medical lab technician shall be a graduate of a program approved by the federal Department of Health and Human Services.

(2) The laboratory may not perform procedures and tests that are outside the scope of training of laboratory personnel.

D. Records.

(1) Laboratory test records and reports may be destroyed four years after the date of the test with the exception of minor children whose records must be maintained until the age of majority plus one year.

(2) The laboratory director shall be responsible for the laboratory report.

(3) A mechanism by which the clinical laboratory report shall be authenticated by testing personnel shall be delineated in the laboratory services' policies and procedures.

(4) The laboratory shall have procedures for ensuring that all requests for tests are ordered in writing by individuals authorized by the medical staff.

(5) The hospital shall have available a copy of their current CLIA certificate or a verification of current CLIA certificate by contractor.

E. Anatomical Pathology.

(1) Pathologist.

(a) Anatomical pathology services shall be under the direct supervision of a pathologist. If it is on a consultative basis, the hospital shall provide for, at minimum, monthly consultative visits by the pathologist. The pathologist must be available in person or electronically at all times.

(b) The pathologist shall participate in lab quality improvement and department conferences.

(c) The pathologist shall be responsible for establishing qualifications of pathology laboratory staff.

(d) An autopsy may be performed only by a pathologist, other qualified individuals qualified by the office of medical investigator or another qualified physician.

(2) Tissue examination.

(a) The medical staff and a pathologist shall determine which tissue specimens require macroscopic examination and which require both macroscopic and microscopic examinations.

(b) The hospital shall maintain an ongoing file of tissue slides and blocks, for a minimum of ten (10) years. Use of outside laboratory facilities for storage and maintenance of records, slides and blocks is permitted.

(c) If the hospital does not have a pathologist or otherwise qualified physician, there shall be a written plan for sending all tissues requiring examination to a pathologist outside the hospital.

(d) A log of all tissues sent outside the hospital for examination shall be maintained. Arrangements for tissue examinations done outside the hospital shall be made with a certified laboratory, or a laboratory approved for the federal CLIA program.

(e) Specimens shall be considered hazardous waste and shall be disposed of in a safe manner.

(3) Records.

(a) All reports of macroscopic and microscopic tissue examination must be authenticated by the pathologist or other qualified physician.

(b) Provisions shall be made for the prompt filing of examination results in the patient's medical record and for notification of the provider who requested the examination.

(c) The autopsy report shall be distributed to the provider and shall be made a part of the patient's record.

(d) Duplicate records of the examination reports shall be kept in the laboratory and maintained in a manner, which permits ready identification and accessibility for a minimum of two years.

(4) Blood Bank.

(a) The blood bank shall be operated according to standards set by the

accrediting agency; either the FDA or CLIA, whichever is more stringent.

(b) Records shall be kept on file in the laboratory service and in the patient medical records according to CLIA guidelines to indicate the receipt and disposition of all blood and blood products provided to patients in the hospital.

(5) Laboratory Certification. The hospital laboratory shall successfully participate in proficiency testing programs that are offered or approved by CMS in those specialties for which the laboratory offers services. Provisions shall be made for an acceptable quality control program covering all types of analysis performed by the laboratory and any other department performing any other laboratory tests. [7.7.2.30 NMAC - Rp, 7.7.2.30 NMAC, 06-15-04]

7.7.2.31 RADIOLOGICAL SERVICES:**A. Diagnostic X-Ray Services.**

(1) Requirement. The hospital shall make diagnostic x-ray services available. These services shall meet professionally approved standards for safety and the qualifications of personnel in addition to the requirements set out in this subsection.

(2) Location. The hospital shall have diagnostic x-ray facilities available in the hospital building proper or clinic or medical facility that is readily accessible to the hospital's patients, physicians and staff.

(3) Policies. Written policies and procedures shall be developed and maintained by the person responsible for the service in consultation with other appropriate health professionals and administration. The governing body shall approve the policies. The administrative and medical staff shall approve the procedures where appropriate.

(4) Safety.

(a) The radiological service shall be free of hazards for patients and personnel.

(b) Proper safety precautions shall be maintained against fire and explosion hazards, electrical hazards and radiation hazards.

(c) Hospital x-ray facilities shall be inspected by a qualified radiation physicist or by the New Mexico environment department radiation consultant at least once every two years. Hazards identified by inspections shall be properly and promptly corrected.

(d) Radiological equipment and radiation services shall conform with the requirements of the Radiation Protection Act, Sections 74-3-1 through 74-3-16, NMSA 1978.

(e) Attention shall be paid to cur-

rent safety design and good operating procedures for use of fluoroscopes. Records shall be maintained of the output of all fluoroscopes.

(f) Policies based on medical staff recommendations shall be established for the administration of the application and removal of radium element, its disintegration products and other radioactive isotopes.

(5) Personnel.

(a) A physician shall have overall responsibility for the radiological service. This physician shall be certified or eligible for certification by the American board of radiology. If such a radiologist is not available on a full-time or regular part-time basis, a physician, with training and experience in radiology, may administer the service. In this circumstance, a radiologist, qualified as above, shall provide consultation services at suitable intervals to assure high quality service.

(b) A sufficient number of personnel capable of supervising and carrying out the radiological services shall be provided. Their training must conform to the requirements set out in the Medical Radiation Health and Safety Act, Sections 61-14E-1 through 61-15E-12, NMSA 1978 and regulations promulgated by the New Mexico environment department titled radiologic technology certification, 20 NMAC 3.2. [Recompiled as 20.3.20 NMAC]

(c) The interpretation of radiological examinations shall be made by physicians qualified in the field.

(d) The hospital shall have a board-certified radiologist, full-time, part-time or on a consulting basis, who is qualified to interpret films that require specialized knowledge for accurate reading.

(e) A technologist shall be on duty or on call at all times.

(f) Only personnel designated as qualified by the state radiology technologist licensing body may use the x-ray apparatus, and only similarly designated personnel may apply and remove the radium element, its disintegration products and radioactive isotopes. Only properly trained persons authorized by the medical director of the radiological service may operate fluoroscopic equipment.

(6) Records.

(a) Authenticated radiological reports shall be filed in the patient's medical record.

(b) Written orders by the attending physician or other individual authorized by medical staff for an x-ray examination shall contain a concise statement of the reason for the examination.

(c) Interpretations of x-rays shall be written or dictated and signed by a qualified physician or other individual authorized by the medical staff.

(d) Copies of interpretive findings shall be retained in the medical record for at least 10 years. Scans and other image records shall be retained for at least four years.

B. Therapeutic X-Rays Services. If therapeutic x-ray services are provided, they shall meet professionally approved standards for safety and for qualifications of personnel. The physician in charge shall be appropriately qualified. Only a physician qualified by training and experience may prescribe radiotherapy treatments.

[7.7.2.31 NMAC - Rp, 7.7.2.31 NMAC, 06-15-04]

7.7.2.32 NUCLEAR MEDICINE SERVICES:

A. Nuclear Medicine Service.

(1) Requirement. If a hospital provides nuclear medicine services, the services shall meet the needs of the hospital's patients in accordance with acceptable standards of professional practice.

(2) Organization and Staffing:

(a) the organization of the nuclear medicine services shall be appropriate for the scope and complexity of the services offered;

(b) there shall be a physician director who is qualified in nuclear medicine to be responsible for the nuclear medicine service;

(c) the qualifications, education, training, functions and legal responsibilities of nuclear medicine personnel shall be specified by the director of the service and approved by the medical staff and chief executive officer/administrator based upon the assurance that personnel are appropriately licensed by the state radiology technologist licensing body; and

(d) all persons who administer radiopharmaceuticals shall be approved by the medical staff and in accordance with applicable federal, state and local laws. The numbers and types of personnel assigned to nuclear medicine shall be appropriate for the scope and complexity of the services offered.

(3) Location. Nuclear medicine services shall be provided in an area of the hospital that is adequately shielded.

(4) Radioactive. Radioactive materials shall be prepared, labeled, used, transported, stored and disposed of in accordance with applicable regulations, i.e. the Radiation Protection Act 74-1-9, 74-3-5, 74-3-9, NMSA 1974, and all regulations promulgated thereunder.

(5) Equipment and supplies.

(a) Equipment and supplies shall be appropriate for the types of nuclear medicine services offered and shall be main-

tained for safe and efficient performance.

(b) All equipment shall be maintained in safe operating condition and shall be inspected, tested and calibrated at least annually by a radiation or health physicist.

(6) Records.

(a) Authenticated and dated reports of nuclear medicine interpretations, consultations and therapy shall be made part of the patient's medical record and copies shall be retained by the service.

(b) Records shall note the amount of radiopharmaceuticals administered, the identity of the recipient, the supplier and lot number and the date of therapy.

(c) The hospital shall provide for monitoring the staff's exposure to radiation. The cumulative radiation exposure for each staff member shall be recorded in the service's records at least monthly.

(d) Records of the receipt and disposition of radiopharmaceuticals shall be maintained. Documentation of instrument performance and records of inspection shall be retained in the service.

B. Mobile Nuclear Medicine Services. The use of mobile nuclear medicine services by a facility to meet the diagnostic needs of its patients shall be subject to approval of the medical staff and the chief executive officer/administrator. The services offered by the mobile nuclear medicine unit shall comply with all applicable rules of this section.

[7.7.2.32 NMAC - Rp, 7.7.2.32 NMAC, 06-15-04]

7.7.2.33 CLINICAL SERVICES:

A. Policies and Procedures. Hospitals which have surgery, anesthesia, dental, maternity, and other services which may be optional services shall have effective written policies and procedures, in addition to those set forth under these requirements, relating to the staffing and functions of each services in order to protect the health and safety of the patients.

B. Surgery.

(1) Policies.

(a) Surgical privileges shall be delineated for each of the medical staff performing surgery in accordance with the individual's competencies and a copy shall be available to operating room supervisor.

(b) The surgical service shall have a written policy to ensure patient safety if a member of the surgical team becomes non-functional.

(c) The surgical service shall have the ability to retrieve information needed for infection surveillance, identification of personnel who assisted at operative procedures, and the compiling of needed data.

(d) There shall be adequate provi-

sion for immediate post-operative care. A patient may be directly discharged from post-anesthetic recovery status, upon direction by an anesthesiologist, another qualified physician or a certified registered nurse anesthetist.

(e) A procedure for the identification, investigation, and elimination of nosocomial infection associated with surgical services. There shall be a written procedure for investigating unusual levels of infection.

(f) Rules and policies relating to the operating rooms shall be available and posted in appropriate locations inside and outside the operating rooms.

(g) The hospital shall have policies which clearly identify the patient, the site, and/or side of the procedure.

(h) Prior to commencing surgery the person responsible for administering anesthesia, or the surgeon must verify the patient's identity, the site and/or side of the body to be operated on, and ascertain that a record of the following appears in the patient's medical record: an interval medical history and physical examination performed and recorded according to hospital policy, appropriate screening tests, based on the needs of the patient, accomplished and recorded according to hospital policy, a properly executed informed consent, in writing for the contemplated surgical procedure, except in emergencies.

(2) Supervision. A professional registered nurse who is qualified by training and experience to supervise the operating rooms shall supervise the operating rooms.

(3) Environment. If explosive gases are used, the services shall have appropriate policies, in writing, for safe use of these gases.

C. Anesthesia.

(1) Policies.

(a) The anesthesia service shall have effective written policies and procedures to protect the health and safety of all patients.

(b) If explosive gases are used, the service shall have appropriate policies, in writing, for safe use of these gases.

(2) Anesthesia use requirements.

(a) Every surgical patient shall have a pre-anesthetic assessment, intra-operative monitoring, and post-anesthesia assessment prior to discharge from a post-anesthesia level of care, according to hospital policy.

(b) In hospitals where there is no organized anesthesia service, the surgical service shall assume the responsibility for establishing general policies and supervising the administration of anesthetics.

(c) Anesthesia shall be administered only by a licensed practitioner permitted by the state to administer anesthetics.

(d) If a general or regional anes-

thetic is used and an MD or DO is not a member of the operating team, an MD or DO shall be immediately available on the hospital premises.

D. Dental Service. All dental services shall meet the following requirements:

(1) dentists performing surgical procedures at the hospital shall be members of the medical staff;

(2) surgical procedures performed by dentists shall be under the overall supervision of an M.D. or D.O., unless the dentist is a licensed oral surgeon;

(3) there shall be policies for referral of patients in need of dental services; these policies will be readily available to all emergency care staff.

E. Maternity.

(1) Definitions: In this subsection.

(a) "Neonatal" means pertaining to the first 27 days following birth.

(b) "Oxytocics" means any of several drugs that stimulate the smooth muscle of the uterus to contract and that are used to initiate labor at term.

(c) "Perinatal" means pertaining to the mother, fetus or infant, in anticipation of and during delivery, and in the first post partum week.

(d) "Perinatal care center" means an organized hospital-based health care service which includes a high-risk maternity service and a neonatal intensive care unit capable of providing case management for the most serious types of maternal, fetal and neonatal illness and abnormalities.

(2) Reporting numbers of beds and bassinets. The number of beds and bassinets for maternity patients and newborn infants, shall be designated by the hospital and reported to the licensing authority.

(3) Maternity admission requirements. The hospital shall have written policies regarding standards of practice for maternity and non-maternity patients who may be admitted to the maternity unit.

(4) High risk infants. Each maternity service shall have adequate facilities, personnel, equipment and support services for the care of high-risk infants, including premature infants, or a written plan for prompt transfer of these infants to a recognized intensive infant care or perinatal care center.

(5) Institutional transfer of infants.

(a) Written policies and procedures for inter-hospital transfer of perinatal and neonatal patients shall be established by hospitals which are involved in the transfer of these patients.

(b) A perinatal care center or high-risk maternity service and the sending hospital shall jointly develop policies and

procedures for the transport of high-risk maternity patients.

(c) Policies, personnel and equipment for the transfer of infants from one hospital to another shall be available to each hospital's maternity service. The proper execution of transfer is a joint responsibility of the sending and receiving hospitals.

(6) Personnel.

(a) The labor, delivery, postpartum and nursery areas of maternity units shall have available the continuous services and supervision of a professional registered nurse for whom there shall be documentation of qualifications to care for women and infants during labor, delivery and in the postpartum period.

(b) When a maternity unit requires additional staff on an emergency basis, the needed personnel may be transferred from another service if they meet the infection control criteria.

(c) The service shall have written policies that state which emergency procedures may be initiated by the professional registered nurse in the maternity service.

(7) Infection control.

(a) The infection surveillance and control program in the maternity service shall be integrated with that of the entire hospital.

(b) Surgery on non-maternity patients may not be performed in the delivery suite, except in emergencies.

(c) Hospitals unable to effectively isolate and care for infants shall have an approved written plan for transferring the infants to hospitals where the necessary isolation and care can be provided.

(8) Labor and delivery.

(a) The hospital shall have written policies and procedures that specify who is responsible for, and what is to be documented for, the care of the patient in labor and delivery, including alternative birthing rooms.

(b) Equipment that is needed for normal delivery and the management of complications and emergencies occurring with either the mother or infant shall be provided and maintained in the labor and delivery unit. The medical staff and the nursing staff shall determine the items needed.

(c) The facility shall have policies for the performing of newborn genetic screening.

(d) Written standing orders shall exist allowing nurses qualified by documented training and experience to discontinue the oxytocic drip should circumstances warrant discontinuance.

(e) The hospital shall be responsible for proper identification of newborns in its care.

(9) Postpartum care. The hospital shall have written policies and procedures

for nursing assessments of the postpartum patient during the entire postpartum course.

(10) Newborn nursery and the care of newborns.

(a) Oxygen, medical air and suction shall be readily available to every nursery.

(b) Hospitals that may require special formula preparation shall develop appropriate written policies and procedures.

(c) Newborn infants shall be screened for hearing sensitivity prior to being discharged.

(d) In the event that a newborn infant is brought to the hospital after birth and has not received a hearing sensitivity screening, the attending physician, nurse, audiologist or authorized staff shall arrange for a hearing sensitivity screening to be performed by a program approved by children's medical services of the department of health.

(e) The hospital shall have effective written policies and procedures to assure that newborn infants, who are brought to the hospital for emergency services, receive a hearing sensitivity screening.

(f) Documentation of the hearing sensitivity screening shall be entered into the infant's medical record as subject to Subsection G of 7.7.2.29 NMAC.

(g) Parents or the legally authorized person may waive the requirements for the newborn hearing sensitivity screening in writing if they object to the screening on the grounds that it conflicts with their religious beliefs. The waiver for the hearing screening shall be after the parents or legally authorized person have been provided with both written and oral explanations by the infant's physician so that they may make an informed decision. The document of waiver shall be placed in the newborn infant's medical record.

(h) Parent(s) who have lawful custody of the infant screened for hearing sensitivity shall be notified of the test results.

(i) Hospitals that permit minor siblings to visit the maternity unit shall have written policies and procedures detailing this practice.

(11) Discharge of infants.

(a) An infant may be discharged only to a parent who has lawful custody of the infant or to an individual who is legally authorized to receive the infant. If the infant is discharged to a legally authorized individual, that individual shall provide identification and, if applicable, the identification of the agency the individual represents.

(b) The hospital shall record the identity of the parent or legally authorized individual who received the infant in the infant's medical record.

[7.7.2.33 NMAC - Rp, 7.7.2.33 NMAC, 06-

15-04]

7.7.2.34 REHABILITATION SERVICES:

A. Organization.

(1) A Hospital may have either inclusive rehabilitation services or separate services for physical therapy, occupational therapy, speech language pathology, recreational therapy or audiology.

(2) Rehabilitation services shall have written policies and procedures governing the management and care of patients.

(3) The services provided on each service shall be given by or provided under the supervision of a qualified professional therapist.

(4) Facility space and equipment for rehabilitation services shall be adequate to meet the needs of patients receiving care.

B. Orders. Physical therapy, occupational therapy, speech language pathology, Recreational therapy, and/or audiology services shall be provided in accordance with orders of practitioners who are authorized.

C. Additional requirements for separate rehabilitation services.

(1) Definition: A rehabilitation unit or facility is defined as a designated unit, or hospital that primarily provides physiological rehabilitation services to inpatients and/or outpatients.

(2) If the facility maintains a separate rehabilitation unit, or hospital, there shall be medical directorship by an individual who has the necessary knowledge, experience and capabilities to direct the rehabilitation services. The medical director shall be a qualified professional physician.

(3) Additional treatment plan and staffing requirements.

(a) The rehabilitation unit or hospital, shall have sufficient staff to provide an optimal program for those who require rehabilitation services. Periodic evaluations of staffing requirements based on patients serviced shall be undertaken to assure rehabilitation needs can be met.

(b) The rehabilitation staff shall plan, implement and modify written individualized treatment plans for patients based on their intake assessment.

(c) Nursing services shall be provided under the direction of a professional registered nurse with background and/or training in rehabilitation nursing. Professional registered nurses who are qualified in the care of rehabilitation nursing services shall supervise nursing care.

(d) Psychological services shall be provided by or given under the supervision of, an appropriately licensed psychologist or psychiatrist. There shall be a sufficient number of psychologists, consultants and or support personnel to provide optimal

patient and/or family evaluations and treatment.

(e) Social work services shall be provided by a sufficient number of qualified social work staff to provide optimal patient and family consultation related to social work rehabilitation services and indicated community resource planning.

(f) Therapy services staff shall be sufficient in number and have sufficient support personnel to provide optimal assessments and treatment(s) to patients served.

[7.7.2.34 NMAC - Rp, 7.7.2.34 NMAC, 06-15-04]

7.7.2.35 RESPIRATORY CARE SERVICES:

A. Direction. If respiratory care services are offered by the hospital, the service shall be under the medical direction of a qualified physician.

B. Policies and Procedures. Respiratory care services shall be provided in accordance with written policies and procedures that shall be approved by the medical staff. The policies and procedures shall address at a minimum:

(1) assembly and operation of mechanical aids to ventilation;

(2) management of adverse reactions to respiratory care services;

(3) administration of medications in accordance with physicians' orders;

(4) personnel who may perform specific procedures, under what circumstances and under what degree of supervision; and

(5) procurement, handling, storage and dispensing of therapeutic gases.

C. Personnel. Respiratory care services shall be provided by personnel qualified by education, training, experience and demonstrated competence.

D. Physicians' Orders. Respiratory care services shall be provided in accordance with the orders of a physician. The staff person authorized to take orders shall transcribe oral orders given by a physician into the medical record.

E. Oxygen monitoring equipment, including oxygen analyzers, shall be available and shall be checked for proper function prior to use but at least daily. Oxygen concentrations shall be documented. There shall be a written policy, which states how frequently oxygen humidifiers are to be cleaned.

[7.7.2.35 NMAC - Rp, 7.7.2.35 NMAC, 06-15-04]

7.7.2.36 OUTPATIENT SERVICES:

A. Medical Direction. If

outpatient services are offered by the hospital, the services shall be under the direction of a qualified member of the medical staff.

B. Administration.

(1) The outpatient service shall be organized into sections or clinics, the number of which shall depend on the size and the degree of departmentalization of the medical staff, the available facilities and the needs of the patients for whom it accepts responsibility.

(2) Outpatient clinics shall be coordinated with corresponding inpatient services.

(3) On their initial visit to the service, patients shall receive an appropriate health assessment with follow-up as indicated.

C. Personnel.

(1) The outpatient services shall have adequate numbers of qualified personnel.

(2) A professional registered nurse shall be responsible for the nursing care of the outpatient service.

D. Facilities.

(1) Facilities shall be provided to ensure that the outpatient service is operated efficiently and to protect the health and safety of the patients.

(2) The number of examination and treatment rooms shall be adequate in relation to the volume and nature of work performed.

(3) Suitable facilities for necessary laboratory and other diagnostic tests shall be available either through the hospital or by arrangement with an independent CLIA certified laboratory.

[7.7.2.36 NMAC - Rp, 7.7.2.36 NMAC, 06-15-04]

7.7.2.37 EMERGENCY SERVICES:

A. Minimum Care Requirements. Acute-care or limited services hospitals must provide an area in the facility with adequate space and emergency equipment needed to treat emergency patients. Written policies for the care of such patients must be readily available to all patient care staff.

B. Distinct Emergency Service. If the hospital has a distinct emergency service:

(1) the emergency service shall be directed by personnel who are qualified by training and experience to direct the emergency service and shall be integrated with other services of the hospital;

(2) the policies and procedures governing medical care provided by the emergency service shall be established by, and are a continuing responsibility of, the medical staff;

(3) emergency services shall be

supervised by a member of the medical staff, and nursing functions shall be the responsibility of a professional registered nurse;

(4) the hospital's emergency services shall be coordinated with local/state/federal mass casualty plans; and

(5) written policies and procedures shall be established prescribing a course of action, including policies for transferring a patient to an appropriate facility when the patient's medical status indicates the need for emergency care which the hospital cannot provide, to be followed in the care of persons who:

(a) manifest severe emotional disturbances;

(b) are under the influence of alcohol or other drugs;

(c) are victims of suspected abuse or are victims of other suspected criminal acts;

(d) have a contagious disease;

(e) have been contaminated by hazardous, chemical, biological or radioactive materials;

(f) are diagnosed dead on arrival;

or

(g) present other conditions requiring special directions regarding action to be taken.

(6) A hospital that provides emergency care for sexual assault survivors shall:

(a) provide each sexual assault survivor with medically and factually accurate and

(b) objective written and oral information about emergency contraception as described in their policies and procedures;

(c) orally and in writing inform each sexual assault survivor for her option to be provided emergency contraception at the hospital; and

(d) provide emergency contraception at the hospital to each sexual assault survivor who requests it and document it in the patient's medical record.

(7) The provision of emergency contraception pills shall include the initial dose that the

sexual assault survivor can take at the hospital as well as the subsequent dose that the sexual assault survivor may self-administer 12 hours following the initial dose or in accordance with accepted standards of practice for the administration of emergency contraception.

(8) A communications system employing telephone, radiotelephone or similar means shall be in use to establish and maintain contact with the police department, emergency medical services, rescue squads and other emergency services of the community.

(9) A list of emergency referral services shall be available in the basic emergency service. This list shall include the name, address and telephone number of such services as:

(a) police department;

(b) rape or domestic crisis center;

(c) burn center;

(d) drug abuse center;

(e) poison control information

center;

(f) suicide prevention center;

(g) director of the state public health division or his designee;

(h) local health department;

(i) clergy;

(j) emergency psychiatric service;

(k) chronic dialysis service;

(l) renal transplant center;

(m) intensive care newborn nursery;

(n) radiation accident management service;

(o) ambulance transport and rescue service, including military resources;

(p) county coroner or medical examiner;

(q) hazardous materials management service;

(r) anti-venom service.

(s) emergency and dental service.

(10) The hospital shall have the following service capabilities:

(a) adequate monitoring and therapeutic equipment;

(b) laboratory service shall be capable of providing the necessary support for the emergency service;

(c) radiological service shall be capable of providing the necessary support of the emergency service;

(d) services shall be available for life threatening situations adequate for the size and scope of the facility and staff;

(e) the hospital shall have readily available the services of a blood bank containing common types of blood and blood derivatives.

C. P h y s i c a l Environment.

(1) The emergency service shall be provided with the facilities, equipment, drugs, supplies and space needed for prompt diagnosis and emergency treatment.

(2) Facilities for the emergency service shall be separate and independent of the operating room.

(3) The location of the emergency service shall be in close proximity to an exterior entrance of the hospital.

D. Personnel.

(1) There shall be sufficient medical and nursing personnel available for the emergency service at all times. All medical and nursing personnel assigned to emergency services shall be trained in cardiopul-

monary resuscitation.

(2) The medical staff shall ensure that qualified members of the medical staff are available at all times for the emergency service, either on duty or on call, and that an authorized medical staff member is responsible for all patients who arrive for treatment in the emergency service.

(3) If unable to reach the patient within 15 minutes, the physician or a licensed independent practitioner shall provide specific instructions to the emergency staff on duty if emergency measures are necessary. These instructions may take the form of written protocols approved by the medical staff.

E. A sufficient number of professional registered nurses qualified by training and/or

experience to work in emergency services shall be available to deal with the number and severity of emergency service cases.

F. The hospital shall ensure that all personnel who provide care to

sexual assault survivors have documented training in the provision of medically and factually accurate and objective information about emergency contraception within 60 days of employment.

G. Complaints.

(1) Complaints of failure to provide services required by the Sexual Assault Survivors Emergency Care Act may be filed with the department.

(2) The department shall investigate every complaint it receives regarding failure of a hospital to provide services required by the Sexual Assault Survivors Emergency Care Act to determine the action to be taken to satisfy the complaint.

(3) If the department determines that a hospital has failed to provide the services required in the Sexual Assault Survivors Emergency Care Act, the department shall:

(a) issue a written warning to the hospital upon receipt of a complaint that the hospital is not providing the services required by the Sexual Assault Survivors Emergency Care Act; and

(b) based on the department's investigation of the first complaint, require the hospital to correct the deficiency leading to the complaint.

(4) If after the issuance of a written warning to the hospital pursuant to Subsection D of this

section, the department finds that the hospital has failed to provide services required by the Sexual Assault Survivors Emergency Care Act, the department shall, for a second through fifth complaint, impose on the hospital a fine of one thousand dollars

(\$1,000):

(a) per sexual assault survivor who is found by the department to have been denied medically and factually accurate and objective information about emergency contraception or who is not offered or provided emergency contraception; or

(b) per month from the date of the complaint alleging noncompliance until the hospital provides training pursuant to the rules of the department.

(5) For the sixth and subsequent complaint against the same hospital if the department finds the hospital has failed to provide services required by the Sexual Assault Survivors Emergency Care Act, the department shall impose an intermediate sanction pursuant to Section 24-1-5.2 NMSA 1978 or suspend or revoke the license of the hospital issued pursuant to the Public Health Act.

H. Medical Records.

(1) Adequate medical records to permit continuity of care after provision of emergency services shall be maintained on all patients. The emergency room patient record shall contain:

- (a) patient identification;
- (b) history of disease or injury;
- (c) physical findings;
- (d) laboratory and x-ray reports,

if any;

- (e) diagnosis;
- (f) record of treatment;
- (g) disposition of the case;
- (h) appropriate time notations,

including time of the patient's arrival, time of physician notification, time of treatment, including administration of medications, time of patient discharge or transfer from the service or time of death.

(2) Where appropriate, medical records of emergency services shall be integrated with those of the inpatient and outpatient services.

I. Emergency Committee.

An emergency services committee composed of physician, professional registered nurses and other appropriate hospital staff shall review emergency services and medical records for appropriateness of patient care on at least a quarterly basis. The committee shall make appropriate recommendations to the medical staff and hospital administrative staff based on its findings. This review may be part of a hospital's overall quality improvement program. Minutes of these meetings shall be maintained for a one year period.

J. Equipment and

Supplies. All equipment and supplies necessary for life support shall be available, including but not limited to, airway control and ventilation equipment, suction devices, cardiac monitor, defibrillator, pacemaker capability, apparatus to establish central

venous pressure monitoring, intravenous fluids and administration devices.

[7.7.2.37 NMAC - Rp, 7.7.2.37 NMAC; A, 06-15-04]

7.7.2.38 SOCIAL WORK SERVICES:

A. Organized Service.

If the healthcare system provides social work services there should be corresponding written policies and procedures governing the scope and provision of services. If the system does not have employed providers for social work services, then they must be obtained via consultation with outside sources.

B. Personnel.

(1) Direction. Social work services shall be directed by personnel who have:

(a) a master's degree in social work from a graduate school of social work accredited by the council on social work education, and has one year of social work experience in a health care setting; or

(b) a bachelor's degree in social work, sociology or psychology; meets the National Association of social workers standards of membership; and has one year of social work experience in a health care setting.

(2) Staff. The social work services staff, in addition to the service director, may include social workers, caseworkers and social work assistants at various levels of social work training and experience.

(3) Number of Staff. There shall be a sufficient number of social work services staff to carry out the purpose and functions of the service.

C. Service. The social work services shall be integrated with other services of the hospital. Staff shall participate, as appropriate, in patient rounds, medical staff seminars, nursing staff conferences, and in conferences with individual physicians, nurses, and other personnel concerned with the care of a patient and the patient's family.

D. Functions. Social work services shall address the psychosocial needs of the patients, their families and others designated by the patient as these relate to health care. Services shall be clearly documented in the record.

E. Environment. The facilities or social work services staff shall provide privacy interviews with patients, their family members and others designated by the patients.

F. Quality Improvement.

The service shall be part of the hospital's performance improvement program.

[7.7.2.38 NMAC - Rp, 7.7.2.38 NMAC, 06-15-04]

7.7.2.39

A D D I T I O N A L

REQUIREMENTS FOR PSYCHIATRIC HOSPITALS:

A. Additional Medical Record Requirements. The medical records maintained by a psychiatric hospital shall document the degree and intensity of the treatment provided to individuals who are furnished services by the facility. A patient's medical record shall contain:

(1) identification data, including the patient's legal status;

(2) the reason for treatment or chief complaint in the words of the patient, when possible, as well as observations or concerns expressed by others;

(3) the psychiatric evaluation, including medical history containing a record of mental status and noting the onset of illness, the circumstances leading to admission, attitudes, behavior, estimate of intellectual functions, memory functioning, orientation and an inventory of the patient's personality assets recorded in descriptive fashion;

(4) social services records, including reports of interviews with patients, family members and others and an assessment of home plans, family attitudes and community resource contacts as well as social history;

(5) a comprehensive treatment plan based on an inventory of the patient's strengths and disabilities, which shall include:

- (a) at least one diagnosis;
- (b) short-term and long-range goals;

(c) the specific treatment modalities used; and

(d) the responsibilities of each member of the treatment team.

(6) staff shall plan, implement and revise, as indicated, a written, individualized treatment program for each patient based on:

(a) the degree of psychological impairment and appropriate measures to be taken to relieve treatable distress and to compensate for nonreversible impairments;

(b) the patient's capacity for social interaction;

(c) environmental and physical limitations such as seclusion room or restraints, required to safeguard the individual's health and safety with an appropriate plan of care; and

(d) the individual's potential for discharge and successful care management on an outpatient basis.

(7) the documentation of all active therapeutic efforts and interventions;

(8) progress notes related to treatment needs and the treatment plan are reviewed, revised and recorded at least weekly as the status of the patient requires by the physician, nurse, social worker and

staff from other appropriate disciplines involved in active treatment modalities, as indicated by the patient's condition; and

(9) discharge information, including:

(a) recommendations from appropriate services concerning follow-up care; and

(b) at least one diagnosis.

B. Additional Treatment Plan and Staffing Requirements.

(1) The hospital shall have enough staff with appropriate qualifications to carry out an active plan of psychiatric treatment for individuals who are furnished services in the facility.

(2) The treatment of psychiatric inpatients shall be under the supervision of a qualified physician who shall provide for taking an active role in an intensive treatment program.

(3) If non-psychiatric medical and surgical diagnostic and treatment services are not available within the facility, qualified consultants or attending physicians shall be immediately available if a patient should need this attention, or an adequate arrangement shall be in place for immediate transfer of the patient to an acute-care hospital.

(4) Nursing services shall be under the supervision of a professional registered nurse qualified to care for psychiatric patients and, by demonstrated competence, to participate in interdisciplinary formulation of individual treatment plans, to give skilled nursing care and therapy, and to direct, supervise and educate others who assist in implementing the nursing component of each patient's treatment plan.

(5) Professional registered nurses and other nursing personnel shall participate in inter-disciplinary meetings affecting the planning and implementation of treatment plans for patients, including diagnostic conferences, treatment planning sessions and meetings held to consider alternative facilities and community resources.

(6) Psychological services shall be under the supervision of a psychologist licensed under the Professional Psychologists Act, Section 61-9-1 through 61-9-18 NMSA 1978. There shall be enough psychologists, consultants and support personnel qualified to carry out their duties to:

(a) assist in essential diagnostic formulations;

(b) participate in program development and evaluation;

(c) participate in therapeutic interventions and in interdisciplinary conferences and meetings held to establish diagnoses, goals and treatment programs.

(7) The number of social work staff qualified to carry out their duties shall

be adequate for the hospital to meet the specific needs of individuals patients and their families and develop community resources and for consultation to other staff and community agencies. The social work staff shall:

(a) provide psychosocial data for diagnosis and treatment planning;

(b) provide direct therapeutic services; and

(c) participate in interdisciplinary conferences and meetings on diagnostic formulation and treatment planning, including identification and use of alternative facilities and community resources.

(8) The number of qualified therapists and therapist assistants shall be sufficient to provide needed therapeutic activities, including, when appropriate, occupational, recreational, and physical therapy, to ensure that appropriate treatment is provided to each patient.

(9) The total number of rehabilitation personnel, including consultants, shall be sufficient to permit appropriate representation and participation in inter-disciplinary conferences and meetings, including diagnostic conferences, which affect the planning and implementation of activity and rehabilitation programs.

[7.7.2.39 NMAC - Rp, 7.7.2.39 NMAC, 06-15-04]

7.7.2.40 PHYSICAL ENVIRONMENT:

A. General. The buildings of the hospital shall be constructed and maintained so that they are functional for diagnosis and treatment and for the delivery of the hospital services appropriate to the needs of the community and with due regard for protecting the life, health and safety of the patients and staff. The provisions of this section apply to all new, remodeled and existing construction unless otherwise noted.

B. Definitions in 7.7.2.40 NMAC.

(1) "Building, Existing" means a building erected prior to the adoption of this regulation, or one for which a legal building permit has been issued.

(2) "Existing construction" means a building, which is in place or is being constructed with plans approved by the department prior to the effective date of this chapter.

(3) "Full-term nursery" means an area in the hospital designated for the care of infants who are born following a full-term pregnancy and without complications, until discharged to a parent or other legally authorized person.

(4) "Intermediate nursery" means an area in the hospital designated for the care of infants immediately following birth

who require observation due to complications, and for the care of infants who require observation following placement in the critical care nursery, until discharged to a parent or other legally authorized person.

(5) "Life safety code" means the standard adopted by the national fire protection association (NFPA) known as NFPA 101 Life safety code.

(6) "New construction" means construction for the first time of any building or addition or remodeling to an existing building, the plans for which are approved after the effective date of this chapter.

(7) "Remodeling" means to make over or rebuild any portion of an existing building or structure and thereby modify its structure, structural strength, fire hazard character, exits, heating and ventilation systems, electrical system or internal circulation, as previously approved by the department. Where exterior walls are in place but interior walls are not in place at the time of the effective date of this chapter, construction of interior walls shall be considered remodeling. "Remodeling" does not include repairs necessary for the maintenance of a building or structure.

(8) "Special care unit" means an organized health care service that combines specialized facilities and staff for the intensive care and management of patients in a crisis or potential crisis state. "Special care units" include psychiatric special care, coronary care, surgical intensive care, medical intensive care and burn units, but do not include post-obstetrical or post-surgical recovery units or neonatal intensive care units.

C. Approvals. The hospital shall keep all documentation of inspections on file in the hospital following any inspections by state and local authorities for a period of five years.

D. Fire Protection.

(1) **Basic Responsibility:** The hospital shall provide fire protection adequate to ensure the safety of patients, staff and others on the hospital's premises. Necessary safeguards such as extinguishers, sprinkling and detection devices, fire and smoke barriers, and ventilation control barriers shall be installed and maintained to ensure rapid and effective fire and smoke control.

(2) **New Construction:** Any new construction or remodeling shall meet the applicable provisions of the current edition of the building code, fire code, life safety code, and AIA guidelines for hospitals and health care facilities.

(3) **Existing Facilities:** Any existing hospital shall be considered to have met the requirements of this subsection if, prior to the promulgation of this chapter, the hospital complied with and continues to com-

ply with the applicable provisions of the 1967, 1973 or the current edition of the life safety code, with or without waivers.

(4) **Equivalent Compliance:** Any existing facility that does not meet all requirements of the applicable life safety code may be considered in compliance with life safety code if the facility achieves a passing score on the fire safety evaluation system (FSES) developed by the U.S. department of commerce, national bureau of standards, to establish safety equivalencies under the life safety code.

E. General Construction.

(1) Prior to any construction, one copy of schematic plans shall be submitted to the Licensing Authority for review and preliminary approval.

(2) Before construction is started, one copy of final plans and specifications which, are used for bidding purposes shall be submitted to the licensing authority for review and approval. Plans must be prepared, sealed, signed and dated by an architect registered in the state of New Mexico.

(3) If on-site construction above the foundation is not started within 12 months of the date of approval of the final plans and specifications, the approval under these requirements shall be void and the plans and specifications must be resubmitted for reconsideration of approval.

(4) Before any construction change(s) is undertaken affecting the approved final plans, modified plans shall be submitted to the licensing authority for review and approval. The licensing authority shall notify the hospital in writing of any conflict with this subchapter found in its review of modified plans and specifications.

(5) **General:** Projects involving alterations of, and additions to, existing buildings shall be programmed and phased so that on-site construction will comply with all codes and minimize disruptions of existing functions. Access, exit ways, and fire protection shall be so maintained that the safety of the occupants will not be jeopardized during construction.

(6) **Minimum requirements:** All requirements listed in Subsection G of 7.7.2.40 NMAC, New Construction, relating to new construction projects, are applicable to renovation projects involving additions or alterations. When existing conditions make changes impractical to accomplish, minor deviations from functional requirements may be permitted with the approval of the licensing authority if the intent of the requirements is met and if the care and safety of patients will not be jeopardized.

(7) **Nonconforming condition:** When doing renovation work, if it is found to be infeasible to correct all of the non-conforming conditions in the existing facility in

accordance with these standards, acceptable compliance status may be recognized by the licensing agency if the operation of the facility, necessary access by the handicapped, and safety of the patients, are not jeopardized by the remaining non-conforming conditions.

(a) Plan approval and building permit by the construction industries division or local building department, are also required for any new construction or remodeling.

(b) Copies of the life safety codes and related codes can be obtained from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322.

F. Construction and Inspections. Construction shall not commence until plan-review deficiencies have been satisfactorily resolved.

(1) The completed construction shall be in compliance with the approved drawings and specifications, including all addenda or modifications approved for the project.

(2) A final inspection of the facility will be scheduled for the purpose of verifying compliance with the licensing standards, and approved plans and specifications.

(3) The facility shall not occupy any new structure or major addition or renovation space until the appropriate permission has been received from the local building and fire authorities and the licensing authority.

G. New Construction.

(1) **General:** Every hospital building hereafter constructed, every building hereafter converted for use as a hospital, and every addition and/or alteration hereafter made to a hospital shall comply with the requirements of these standards.

(a) Compliance with these standards does not constitute release from the requirements of other applicable state and local codes and ordinances. These standards must be followed where they exceed other codes and ordinances.

(b) No building may be converted for use as a licensed hospital, which because of its location, physical condition, state of repair, or arrangement of facilities, would be hazardous to the health and safety of the patients who would be housed in such a building. Any hospital or related institution that has been vacated in excess of one year or used for occupancy other than health care will be classified as a new facility.

(c) All new construction, remodeling and additions must meet requirements set forth by these standards, the building and fire codes and by the Americans with Disabilities Act (ADA), for accessibility for persons with disabilities.

(2) **Codes and standards:** In addition

to compliance with these standards, all other applicable building codes, ordinances, and regulations under city, county or other state agency jurisdiction shall be observed.

(a) Compliance with local codes shall be pre-requisite for licensing. In areas not subject to local building codes, the state building codes shall be pre-requisite for licensing, as adopted.

(b) New construction for acute-care hospitals, limited services hospitals and special hospitals are governed by the current editions of the following codes and standards: uniform building code (UBC), uniform plumbing code (UPC), uniform mechanical code (UMC), national electric code (NEC), national fire protection association standards (NFPA), American national standards institute (ANSI), American society of heating, refrigerating, and air conditioning engineers (ASHREA), American institute of architects (AIA), academy of architecture for health guidelines for design and construction of hospital and health care facilities, NFPA101, and New Mexico building code (NMBC).

H. Patient Rooms-General.

(1) **Bed capacity:** Each hospital's bed capacity may not exceed the capacity approved by the Licensing Authority.

(2) **Privacy:** Visual privacy shall be provided for each patient in multi-bed patient rooms. In new or remodeled construction, cubicle curtains shall be provided.

(3) **Toilet room:**

(a) In new construction, each patient room shall have access to one toilet without entering the general corridor area. One toilet room shall serve no more than four beds and no more than two patient rooms. Where the toilet room serves more than two beds an additional hand washing shall be placed in the patient room.

(b) In new and remodeled construction, the door to the patient toilet room shall swing into the patient room, or two-way hardware shall be provided.

(c) The minimum door width to the patient toilet room shall be 36 inches (91.4 cm) for new construction. The door shall swing outward or be double acting.

(4) **Minimum floor area:** The minimum floor area per bed shall be 100 square feet of clear floor area in multi-bed patient rooms, and 120 square feet of clear floor area in single-bed patient rooms, exclusive of toilet rooms, closets, lockers, wardrobes, alcoves or vestibules.

(5) **Minimum furnishing:**

(a) A hospital-type bed with suitable mattress, pillow and the necessary coverings shall be provided for each patient.

(b) There shall be a bedside table or stand and chair for each patient.

(c) Each patient shall have within

his/her room adequate storage space suitable for hanging full-length garments and for storing personal effects.

I. Isolation Room(s). Rooms shall be provided for isolation of patients whose condition require isolation for physical health reasons.

(1) Each isolation room shall have a separate toilet, bathtub (or shower), and a hand washing sink. These shall be arranged to permit access from the bed area without passing through the work area of the vestibule or anteroom.

(2) Each room shall have an area for hand washing, gowning, and storage of soiled materials located directly outside or immediately inside the entry door to the room.

(3) Each room shall have self-closing devices on all room exit doors. All wall, ceiling and floor penetrations in the room shall be sealed tightly.

J. Patient Care.

(1) Nursing station or administrative center: Nursing stations or administrative centers in patient care areas of the hospital may be located to serve more than one nursing unit, but at least one of these service areas shall be provided on each nursing floor or wing. The station or center shall contain:

(a) storage for records, manuals and administrative supplies;

(b) an area for charting when the charts of patients are not maintained at patient rooms;

(c) hand washing sink conveniently accessible to the nurse station;

(d) staff toilet room: in new construction, a staff toilet room and hand washing sink shall be provided on each nursing unit; and

(e) securable closet or cabinet for the personal articles of nursing personnel, located in or near the nursing station.

(2) Utility areas: A utility area room for soiled linen and other clean articles shall be readily accessible to each nursing utility area. Each room shall have:

(a) storage facilities for supplies;

(b) a hand washing sink;

(c) work counters; and

(d) a waste receptacle.

(3) Bathing Facilities: Showers and bathtubs. When individual bathing facilities are not provided in patient rooms, there shall be at least one shower and/or one bathtub for each 12 beds without such facilities. Each bathtub or shower shall be in an individual room or enclosure that provides privacy for bathing, drying, and dressing. One special bathing facility, including space for attendants, shall be provided for patients on stretchers, carts and wheelchairs for each 100 beds or fraction thereof.

(4) Equipment and supply stor-

age: An equipment and supply storage room or alcove shall be provided for storage of equipment necessary for patient care. Its location shall not interfere with the flow of traffic.

(5) Corridors and passageways: Corridors and passageways in patient care areas shall be free of obstacles.

(6) Housekeeping closet: A housekeeping closet shall be provided on the nursing unit or sufficient cleaning supplies and equipment shall be readily accessible to the nursing unit.

(7) Patient call system: A reliable call mechanism shall be provided in locations where patients may be left unattended, including patients rooms, toilet and bathing areas and designed high risk treatment areas where individuals may need to summon assistance.

K. Additional Requirements for Particular Patient Care Areas.

(1) Special care units.

(a) In new construction, sufficient viewing panels shall be provided in doors and walls for observation of patients. Curtains or other means shall be provided to cover the viewing panels when privacy is desired.

(b) In new construction, a sink equipped for hand-washing and a toilet shall be provided in each private patient room. In multi-bed rooms at least one sink and one toilet for each six beds shall be provided. Individual wall-hung toilet facilities with private curtains or another means of safeguarding privacy may be substituted for a toilet room.

(c) In new construction, all beds shall be arranged to permit visual observation of the patient by the nursing staff from the nursing station. In existing facilities, if visual observation is not possible from the nursing station, sufficient staffing or television monitoring shall permit continuous visual observation of the patient.

(d) In new construction, the dimensions and clearances in special care unit patient rooms shall be as follows: single bed rooms shall have minimum dimensions of 10 feet by 12 feet, multi-bed rooms shall have minimum side clearances between beds of at least seven feet, and in all rooms the clearance at each side of each bed shall be not less than three feet six inches and the clearance at the foot of each bed shall be not less than four feet.

(2) Psychiatric units: The requirements for patient room under Paragraph (8) of Subsection B of 7.7.2.40 NMAC apply to patient rooms in psychiatric nursing units and psychiatric hospital except as follows:

(a) in new construction or remodeling, a staff emergency call system shall be

included. When justified by psychiatric program requirements and with the approval of the licensing authority, call cords from wall-mounted stations of individual patients rooms may be removed;

(b) doors to patient rooms and patient toilet room doors may not be lockable from the inside;

(c) patients' clothing and personal items may be stored in a separate designated area which is locked;

(d) moveable hospital beds are not required for ambulatory patients.

(3) Surgical and recovery facilities must:

(a) have at least one room equipped for surgery and used exclusively for this purpose;

(b) have a scrub room or scrub area adjacent to the surgery room used exclusively for this purpose;

(c) have a clean-up or utility room;

(d) have a storage space for sterile supplies;

(e) have means for calling for assistance in an emergency in each operating room;

(f) have housekeeping facilities adequate to maintain the operating room or rooms;

(g) have a flash sterilizer, unless sterilization facilities are accessible from the surgery area;

(h) be located and arranged to prevent unrelated traffic through the suite;

(i) ensure the room or rooms for post-anesthesia recovery of surgical patients shall at a minimum contain a medications storage area, hand-washing facilities and sufficient storage space for needed supplies and equipment; and

(j) have available oxygen and suctioning equipment in the operating suite and recovery rooms.

(4) Labor and delivery.

(a) The labor and delivery unit shall be located and arranged to prevent unrelated traffic through the unit.

(b) Facilities within the labor and delivery unit shall include: at least one room equipped as a delivery room and used exclusively for obstetrical purposes, a scrub-up room adjacent to the operative delivery unit if operative deliveries are performed, a clean-up or utility room with a flush-rim clinical sink, and a separate janitor's closet with room for housekeeping supplies for the unit.

(c) In new construction, in addition to lightning for general room illumination, adjustable examination and treatment lights shall be provided for each labor bed.

(d) The following equipment shall be available: sleeping unit for each infant, and a clock.

(e) Space for necessary house-keeping equipment in or near the nursery is required.

(f) An examination area and work space for each nursery shall be provided.

(5) Isolation nursery.

(a) If an isolation nursery is provided in new construction: the isolation nursery shall be within the general nursery area and may not open directly to another nursery, and access to the isolation nursery shall be through an anteroom which shall have at least a sink equipped for hand-washing, gowning facilities, an enclosed storage space for clean linen and equipment and a closed hamper for disposal of refuse.

(b) A private patient room with hand-washing facilities may be used as an isolation nursery.

(6) Postpartum lounge area: The lounge and dining room when provided for maternity patients shall be separate from other areas.

L. Other Physical Environment

(1) Thresholds and expansion joint: Thresholds and expansion joint covers shall be flush with the floor surface to facilitate the use of wheelchairs and carts, and as may be required by OSHA. Expansion and seismic joints shall be constructed to restrict the passage of smoke.

(2) Emergency fuel and water: The hospital shall make provisions for obtaining emergency fuel and water supplies.

(3) Emergency lighting system: The emergency lighting system and equipment shall be tested at least monthly.

(4) Diagnostic and therapeutic facilities, supplies and equipment: Diagnostic and therapeutic facilities supplies and equipment shall be sufficient in number and in good repair to permit medical and nursing staffs to provide an acceptable level of patient care.

(5) Walls and ceilings: The walls and ceilings shall be kept in good repair. Loose, cracked or peeling wallpaper and paint of walls and ceilings shall be replaced or repaired. Washable ceilings shall be provided in surgery rooms, delivery rooms, janitor closets and utility rooms.

(6) Floors: All floor materials shall be easy to clean and have wear and moisture resistance appropriate for the location. Floors in areas used for food preparation or food assembly shall be water-resistant and grease-proof and shall be kept clean and in good repair.

(7) Cords: Electrical cords shall be maintained in good repair.

(8) Carpeting.

(a) Carpeting may not be installed in rooms used primarily for food preparation and storage, dish and utensil washing,

cleaning of linens, storage of janitor supplies, laundry processing, hydrotherapy, toiling and bathing, resident isolation or patient examination.

(b) Carpeting, including any underlying padding, shall have a flame spread rating permitted by the national fire protection association's national fire codes. Certified proof by the manufacturer of this test for the specific product shall be available in the facility. Certification by the installer that the material installed is the product referred to in the test shall be obtained by the facility. Carpeting may not in any case be applied to walls except where flame spread rating can be shown to be twenty-five (25) or less.

(9) Acoustical tile: Acoustical tile shall be non-combustible and non-asbestos.

(10) Wastebaskets: Wastebaskets shall be made of non-combustible materials.

(11) Fire report: All incidents of fire in a facility shall be reported in writing to the licensing authority within 72 hours of the incident.

M. Maintenance. The hospital must maintain written evidence of routine maintenance performed for the facility, supplies and equipment to ensure an acceptable level of safety and quality.

[7.7.2.40 NMAC - Rp, 7.7.2.40 NMAC, 06-15-04]

7.7.2.41 OTHER REQUIREMENTS:

A. Anatomical Gifts. The hospital will adopt and implement organ and tissue donation policies and procedures to assist the medical, surgical and nursing staff in identifying and evaluating potential organ or tissue donors.

(1) Organ bank, means a facility certified by CMS for storage of human body parts.

(2) Decedent, means a deceased individual who made a gift of all or part of his body.

(3) Donor, means an individual who makes a gift of all or part of his body.

(4) Eye bank, means any non-profit agency which is organized to procure eye tissue for the purpose of transplantation or research and which meets the medical standards set by the eye bank association of America.

(5) Organ procurement agency, means any non-profit agency designated by the health care financing administration to procure and place human organs and tissues for transplantation, therapy, or research.

(6) Part, includes organs, tissues, eyes, bones, arteries, blood, other fluids and other portions of human body.

(7) Person, means an individual, corporation, government or governmental subdivision or agency, business trust, estate,

trust, partnership or association or any other legal entity.

(8) State, includes any state, district, commonwealth territory, insular possession and any other area subject to the legislative authority of the United States of America.

B. Procedures.

(1) The organ and tissue donation policy and procedure shall conform to the CMS Conditions of Participation for organ and tissue donations.

(2) All physician and hospital personnel shall make every reasonable effort to carry out the organ and tissue donation policy and procedure adopted by the hospital so that the wishes of a donor may be conveyed to an appropriate local organ procurement agency or eye bank and the necessary donation documents may be properly executed.

(3) Consent from next of kin. Persons authorized to donate anatomical gifts on behalf of the decedent shall conform with the Uniform Anatomical Gift Act, N.M. Laws 2000, Chapter 54, or applicable subsequent statutes.

(4) Every hospital shall develop and implement a policy and procedure for the determination of brain death pursuant to Section 12-2.4 NMSA 1978.

(5) Laws pertaining to notification of the office of the medical investigator shall be complied with in all cases of reportable deaths.

(6) The requirements of this section apply only to acute-care hospitals and limited services hospitals in New Mexico. [7.7.2.41 NMAC - Rp, 7.7.2.41 NMAC, 06-15-04]

7.7.2.42 RELATED REGULATIONS AND CODES: Hospitals subject to these requirements are also subject to other regulations, codes and standards as the same may from time to time be amended as follows:

A. Health Facility Licensure Fees and Procedures, New Mexico department of health, 7 NMAC 1.7 (10-31-96). [Recompiled as 7.1.7 NMAC]

B. Health Facility Sanctions and Civil Monetary Penalties, 7 NMAC 1.8 (10-31-96) [Recompiled as 7.1.8 NMAC]

C. Adjudicatory Hearings, New Mexico department of health, 7 NMAC 1.2 (2-1-96). [Recompiled as 7.1.2 NMAC]

D. Building, fire, electrical, plumbing and mechanical codes; the most current edition, adaptation by the state of New Mexico.

E. The current edition of the AIA guidelines for construction and

design of hospitals and healthcare facilities, adopted in the state of New Mexico.

[7.7.2.42 NMAC - Rp, 7.7.2.42 NMAC, 06-15-04]

HISTORY OF 7.7.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the state records center & archives under HED 89-1 (PHD), New Mexico Regulations Governing General and Special Hospitals, filed April 25, 1989.

HISTORY OF REPEALED MATERIAL: 7 NMAC 7.2, Requirements for General and Special Hospitals (filed 10-18-1996) repealed 6-01-2000.

7.7.2 NMAC, Requirements for General and Special Hospitals (filed 04-27-2000) repealed 07-01-2004.

Other History:

HED 89-1 (PHD), New Mexico Regulations Governing General and Special Hospitals (filed April 25, 1989) renumbered, reformatted and replaced by 7 NMAC 7.2, Requirements for General and Special Hospitals, effective 10-31-96.

7 NMAC 7.2, Requirements for General and Special Hospitals (filed October 18, 1996) replaced by 7.7.2 NMAC, Requirements for General and Special Hospitals, effective 06-01-2000.

7.7.2 NMAC, Requirements for General and Special Hospitals (filed 04-27-2000) replaced by 7.7.2 NMAC, Requirements for Acute Care, Limited Services and Special Hospitals, effective 06-15-2004.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.200.430 NMAC, Section 16, that will be effective on June 15, 2004. The Medical Assistance Division amended the section to include unearned income in the co-pay maximum allowance calculation.

8.200.430.16 RECIPIENT FINANCIAL RESPONSIBILITIES: Providers who participate in medicaid agree to accept the amount paid as payment in full, see 42 CRF 447.15, with the exception of co-payment amounts required in certain medicaid categories. Other than the co-payments, a provider cannot bill a recipient for any unpaid portion of the bill or for a claim that is not paid because of provider administrative error or failure of multiple providers to communicate eligibility information. Native Americans are exempt from co-payment requirements.

A. Direct recipient responsibility for payment

(1) **Failure to follow managed care policies:** A recipient must be aware of the physicians, pharmacies, hospitals, and another provider who participate in their health maintenance organization (HMO) or other managed care plan. A recipient is responsible for payment for services if he/she uses a provider who is not a participant in his/her plan or if he/she receives any services without complying with the rules, policies, and procedures of the plan.

(2) **Denied emergency room claims:** A recipient is responsible for payment of a hospital outpatient emergency room claims if a determination is made by MAD or its designee that an emergency did not exist at the time the service was furnished.

(a) A provider can bill the recipient directly for the denied emergency room charge.

(b) The recipient cannot be billed for denied ancillary services, such as laboratory and radiology services.

(3) **Other recipient payment responsibilities:** If all the following conditions are met before a service is furnished, a recipient can be billed directly by a provider for services and is liable for payment:

(a) the recipient is advised by a provider that the particular services is not covered by medicaid or are advised by a provider that he/she is not a medicaid provider;

(b) the recipient is informed by a provider of the necessity, options, and charges for the services and the option of going to other provider who is a medicaid provider; and

(c) the recipient agrees in writing to have the service provided with full knowledge that he/she is financially responsible for the payment.

(4) **Co-payment responsibility for SCHIP and WDI recipients:** It is the recipient's responsibility to pay the co-payment to the provider. Children eligible for category 032 with family income between 185-235% of poverty (SCHIP) and working disabled individuals (WDI), category 043, will have co-payment requirements as follows:

(a) WDI
(i) \$7 per outpatient physician visit, other practitioner visit, clinic visit, urgent care visit, outpatient therapy session, or behavioral health session;

(ii) \$7 per dental visit;

(iii) \$20 per emergency room visit;

(iv) \$30 per inpatient hospital admission;

(v) \$5 per prescription, applies to prescription and non-prescription drug items.

(b) SCHIP

(i) \$5 per outpatient physician visit, other practitioner visit, clinic visit, urgent care visit, outpatient therapy session, or behavioral health session;

(ii) \$5 per dental visit;

(iii) \$15 per emergency room visit;

(iv) \$25 per inpatient hospital admission;

(v) \$2 per prescription, applies to prescription and non-prescription drug items.

(5) **Co-payment exclusions:** Certain services and populations are exempt from co-payment responsibilities:

(a) preventive, prenatal care services and contraceptive management services are exempt from the copayment requirement.

(b) services provided at Indian health service facilities, by urban Indian providers and by tribal 638s are also exempt from the co-payment requirement.

(c) there is no co-payment required during presumptive eligibility or retroactive eligibility periods.

(d) there is no co-payment required for services provided to Native Americans.

(6) **Co-payment maximum for SCHIP and WDI:** It is the responsibility of the family to track and total the co-payments paid. Once the family yearly maximum amount for SCHIP and WDI recipients has been paid by the family via co-payments on medicaid covered services, the recipient must notify the medical assistance division. Verification must be provided to the medical assistance division that the co-payment maximum for SCHIP and WDI recipients has been paid. The first month that co-payments will no longer be required by the SCHIP and WDI recipient is the month following the month in which it has been verified by the medical assistance division that the maximum amount has been met. If the determination is made after the twenty-fifth (25th) of the month, the change is made effective the second month after the request. No retroactive eligibility for the "met co-payment maximum" criteria is allowed. Subsequent to establishing that the co-payment maximum amount has been met, the WDI recipient and the family of SCHIP recipients is not responsible for payment of co-payments for the remainder of that calendar year.

(a) Co-payment maximum amounts for SCHIP recipients are calculated at initial determination and re-determination of eligibility by ISD. The co-payment maximum amount calculated at the re-determination is effective for the following year.

(b) If the family income decreases to below 185% of federal income poverty guidelines, the family may report that

change and have the children changed to category 032 eligibility up to 185% of poverty, with no co-payment requirements. The change is effective in the month following the month of such determination. If the determination is made after the twenty-fifth (25th) of the month, the effective date of the change is the second month after such verification.

(c) The family maximum co-payment amounts for SCHIP recipients are as follows:

(i) families with income between 185-200% FPL- maximum is 3%

(ii) families with income between 201-215% FPL- maximum is 4%

(iii) families with income between 216-235% FPL- maximum is 5%

(d) The co-payment maximum varies depending on the recipient's earned and unearned income. Once the recipient has reached his/her co-payment maximum on covered medicaid services, co-payments cease for the rest of that calendar year, only after the recipient has fulfilled the required steps. For SCHIP, see Paragraph (5) of Subsection A of Section 16 of 8.200.430 NMAC; for WDI, see Section 9 of 8.243.600 NMAC.

(e) Co-payment maximum amounts for WDI recipients are calculated at initial determination, based on the income received the first month of eligibility, and every twelve months thereafter. The co-payment maximum amount calculated at the initial determination is prorated for the rest of the calendar year and is also determined for the following calendar year. At each annual periodic review, the co-payment maximum will be calculated for the following calendar year.

(i) Recipients with earned and unearned income below 100% FPL – maximum is \$600.

(ii) Recipients with earned and unearned income between 100-250% FPL – maximum is \$1500.

[2-1-95, 3-1-99, 7-1-00; 8.200.430.16 NMAC – Rn, 8 NMAC 4.MAD.437 & A, 1-1-01; A, 1-1-02; A, 6-1-04; A, 6-15-04]

NEW MEXICO JUVENILE PAROLE BOARD

JPB Rule No. 1 (filed 8/13/1992) named, New Mexico Juvenile Parole Board Rules and Regulations, is hereby repealed and replaced by 22.510.100 NMAC, Juvenile Parole Board, effective 06/15/2004.

NEW MEXICO JUVENILE PAROLE BOARD

TITLE 22 COURTS CHAPTER 510 PAROLE PART 100 JUVENILE PAROLE BOARD

22.510.100.1 ISSUING AGENCY:
New Mexico Juvenile Parole Board.
[22.510.100.1 NMAC - N, 06/15/04]

22.510.100.2 SCOPE: This policy applies to members and employees of the juvenile parole board, and to all juvenile offenders, including youthful offenders, who are eligible to be considered for parole by the juvenile parole board.
[22.510.100.2 NMAC - N, 06/15/04]

22.510.100.3 S T A T U T O R Y AUTHORITY: These regulations are adopted pursuant to authority granted to the juvenile parole board in 1978 N.M. Stat. Ann. Section 32A-7-6(A)(7)(2003).
[22.510.100.3 NMAC - Rp JPB Rule No. 1, Section 1, 06/15/04]

22.510.100.4 D U R A T I O N :
Permanent.
[22.510.100.4 NMAC - N, 06/15/04]

22.510.100.5 EFFECTIVE DATE:
June 15, 2004, unless a later date is cited at end of a section.
[22.510.100.5 NMAC - N, 06/15/04]

22.510.100.6 OBJECTIVE: To establish standards and procedures for the juvenile parole board and its staff to conduct investigations, examinations, interviews, hearings and such other procedures as may be necessary for the effectual discharge of the duties of the board.
[22.510.100.6 NMAC - N, 06/15/04]

22.510.100.7 DEFINITIONS: In these definitions, all references to males are understood to include females. As used in these regulations:

A. "administrative review" means a review conducted by the director or other designated juvenile parole board staff member ("hearing officer") as authorized by the chairman;

B. "agenda" means the list of juvenile offenders who are to be considered for parole at the board's regular parole hearings;

C. "AODA" means the administrative office of the district attorneys;

D. "board" means the juvenile parole board whose members are appointed pursuant to the Juvenile Parole

Board Act, 1978 NMSA Sections 32A-7-1 to 32A-7-9;

E. "certificate of parole" means the document bearing the seal of the juvenile parole board, signed by the parolee and parent/guardian/custodian, acknowledging parole status and conditions of parole pursuant to 1978 NMSA Section 32A-7-6(C) and (D);

F. "commitment" means the transfer of legal custody of an adjudicated delinquent child to the department, and agency responsible for the care and rehabilitation of delinquent children, which shall receive the child at a facility designated by the secretary of the department as a juvenile reception facility; the committing judge may make recommendations for placement of the child; types of commitments include:

(1) a short-term commitment of one year;

(2) a long-term commitment of two years in a long-term facility for the care and rehabilitation of adjudicated delinquent children;

(3) if the child is a delinquent offender who committed one of the criminal offenses set forth in 1978 NMSA Section 32A-2-2(I), a commitment to age twenty-one, unless sooner discharged;

(4) if the child is a youthful offender, a commitment to age twenty-one, unless sooner discharged;

G. "department" means the New Mexico children, youth and families department;

H. "director" means the administrative officer of the juvenile parole board appointed by the governor; the director shall employ other staff as necessary to carry out the administrative duties of the board;

I. "facility" means the juvenile correctional/rehabilitation facility housing a juvenile offender committed to the custody of the department;

J. "final parole violation hearing" means a proceeding conducted by the board or its designated hearing officer, for the purpose of determining whether to revoke parole;

K. "hearing examiner" means an employee of the department, who conducts preliminary parole violation inquiries;

L. "hearing officer" means an employee of the board charged with carrying out approved duties of the board;

M. "home study" means the assessment of the living environment where the juvenile offender may reside during the term of parole; the assessment is conducted by the department; specific strengths and weaknesses of the living environment are identified through the home

study process;

N. "intake" means the classification process during which new residents committed to the department are given an extensive battery of education, psychological and medical tests to guide placement decisions; in addition to testing, behaviors are observed during the time the residents are in the central intake unit; a multi-disciplinary team assembles and analyzes all of this information with the goal of making the most appropriate placement referral for the resident; this process is completed approximately within thirty days from the time the juvenile offender is admitted to central intake;

O. "juvenile probation/parole officer" (JPPO) means an employee of the department's juvenile justice division who supervises parolees according to the terms of the parole agreement;

P. "juvenile offender" means a child committed to the custody of the department pursuant to the Delinquency Act, 1978 NMSA Section 32A-2-1 through 32A-2-32; the term "juvenile offender" in this regulation includes those individuals who are committed as youthful offenders;

Q. "parole" means the release of a committed juvenile offender whose term has not expired, from the physical custody of the department, on the condition of sustained lawful behavior and other terms set forth in the parole agreement and subject to monitoring by the department and the board for the unexpired portion of the commitment;

R. "parole agreement" means the conditions of parole as established by the board. The parolee is required to agree in writing to the conditions as a prerequisite to being placed on parole status;

S. "parole hearing" means a proceeding conducted by the board for purposes of deciding whether to grant or deny parole, or whether to defer parole, release without parole, or revoke parole;

T. "parole plan" means the department's recommendation for the conditions the juvenile offender should be required to fulfill if paroled; the parole plan takes into consideration all relevant information including the home study, and presents workable methods of dealing with the juvenile offender's problems and needs through community intervention;

U. "parole supervision" means the supervision provided to parolees by the department;

V. "parolee" means a committed juvenile offender who has been granted parole by the board;

W. "preliminary parole violation hearing" means a proceeding

conducted by the en employee of the department's staff, designated as a hearing examiner, to determine whether there is probable cause for the board to conduct a final parole violation hearing;

X. "structured decision making" (SDM) means a system designed for use in case management of the juvenile population, and used by the department in the classification of committed juvenile offenders; and

Y. "victim notification" means notification to the AODA of any parole of juvenile offenders who were committed on the following offenses: arson resulting in bodily injury; aggravated arson; aggravated assault or aggravated battery; dangerous use of explosives; negligent use of a deadly weapon; murder; voluntary manslaughter; involuntary manslaughter; kidnapping; criminal sexual penetration; criminal sexual contact of a minor; homicide by vehicle or great bodily injury by vehicle; abandonment or abuse of a child; aggravated indecent exposure; stalking; armed robbery.

[22.510.100.7 NMAC - Rp JPB Rule No. 1, Section 2, 06/15/04]

22.510.100.8 ADMINISTRATIVE REVIEWS

A. Administrative review. At intervals, prior to placing a juvenile offender on the board's agenda, the director or a staff member designated as hearing officer reviews the juvenile offender's progress or lack thereof. The administrative review may be based solely on documentation. Whenever possible, it is preferable for the administrative review to include an interview with the juvenile offender at the facility where he is housed.

(1) The first administrative review must occur not later than forty days after the date that the juvenile offender is committed to the department's custody.

(2) The next administrative review occurs no later than sixty days after the first administrative hearing.

(3) Subsequent administrative reviews occur at sixty day intervals thereafter, until such time as the juvenile offender is placed on the agenda for a parole hearing, or is otherwise discharged.

B. After each administrative review, the staff prepares a report of the juvenile offender's progress with recommendation as to readiness for parole. The reports are compiled and provided to board members monthly. Any board member may direct the staff to obtain additional information regarding any child at any time, and may review the case of any child at any time. Staff also provide copies of the reviews to the facilities, with any recommendations, also on a monthly basis.

[22.510.100.8 NMAC - Rp JPB Rule No. 1, Section 3.A, 06/15/04]

22.510.100.9 PAROLE HEARINGS:

The board will conduct parole hearings at regular intervals to consider whether to grant parole to juvenile offenders who are identified on the agenda. In addition to the regularly scheduled parole hearings, the board may conduct special parole hearings upon recommendation of a facility or as a result of any circumstances that warrant review and consideration for parole. Parole hearings are held at any of the department's facilities.

[22.510.100.9 NMAC - Rp JPB Rule No. 1, Section 3.C.1, 06/15/04]

22.510.100.10 PREPARATION FOR PAROLE HEARINGS:

The director and board's staff coordinate preparations for the board's parole hearings.

A. Regularly scheduled parole hearings.

(1) Each facility submits a proposed agenda to the board's staff at least thirty-five days prior to the regularly scheduled parole hearing dates.

(2) Juvenile offenders may ask to be placed on the agenda by petitioning the board.

(3) The final agenda is prepared by the board's staff, as approved by the director.

(4) The staff distributes copies of the final agenda to the department's facilities sufficiently in advance so that the facilities may arrange for the juvenile offenders and the employees who will present their cases to be present.

(5) The staff provides copies of the agenda to children's court judges in the judicial districts from which the juvenile offenders were committed, at least 30 days before the parole hearing. The staff also notifies the committing children's court judge of any additions or deletions to the agenda.

(6) For purposes of victim notification, the staff notifies the AODA of the upcoming agenda at least thirty days prior to the parole hearing. The staff provides notice of any additions or deletions ten days prior to the parole hearing, and again five days prior to the parole hearing. After the parole hearing, the staff notifies the AODA of the juvenile offenders who were granted or denied parole.

(7) A facility that wishes to add a juvenile offender to the agenda after the agenda has been distributed must notify the AODA and the committing judge. Any other person/entity who makes an addition to the final agenda is responsible for promptly notifying the committing children's court judge and the AODA.

B. Special parole hearings. Special parole hearings are scheduled at the discretion of the board. Time frames applicable to the regularly scheduled parole hearings do not apply; however, the board's staff will coordinate receipt of any proposed agenda and distribution of the finalized agenda so that all interested parties and agencies receive as much notice as practicable. Notices of special parole hearings are provided to the AODA and committing judges as soon as practicable. [22.510.100.10 NMAC - Rp JPB Rule No. 1, Section 3.C.2-3, 06/15/04]

22.510.100.11 CONDUCT OF PAROLE HEARINGS

A. The board personally interviews each juvenile offender before making a decision to grant or deny parole. The juvenile offender is present at each parole hearing at which his parole is under consideration.

B. At least one representative from the facility having custody of the juvenile offender shall be present at the parole hearing, and also at each succeeding parole review and hearing.

C. Juvenile offenders are not permitted to have legal counsel present at parole hearings or at any administrative review.

D. The board has sole discretion and authority to determine who may be present at parole hearings.

E. Official minutes of parole hearings are prepared by the board's staff.

F. Any decision regarding parole shall be approved by a majority of the board. If the action of the board is not unanimous, the dissenting member may have the reasons for his dissent set forth in the official minutes of the parole hearing.

G. The board's decision is announced to the juvenile offender at the parole hearing. The board's decision is processed in accordance with Section 22.510.100.14 NMAC.

H. The board chairman may direct that any board member or other board staff act as a hearing officer for any parole hearing. The designated hearing officer shall prepare a summary of the hearing and of his recommendations, which shall be submitted to the board for decision. Juvenile offenders who appear before a designated hearing officer will be so notified. [22.510.100.11 NMAC - Rp JPB Rule No. 1, Section 3.C.4-12, 06/15/04]

22.510.100.12 CRITERIA FOR PAROLE: The board shall base a decision to grant or deny parole on the following:

A. the juvenile offender's preparedness and willingness to assume the

obligations and responsibilities of the parole agreement;

B. the adequacy and suitability of the proposed parole plan, including special conditions such as employment, school, training and community service;

C. the existence or nonexistence of suitable living arrangements;

D. the juvenile offender's relationship with family and friends;

E. the degree to which the proposed living arrangements and community are conducive to successful completion of parole and reintegration into the community;

F. the juvenile offender's progress, rehabilitation and conduct while in the facility, including as reflected through SDM information;

G. the extent and nature of the juvenile offender's drug or other substance abuse, and his response to treatment;

H. the juvenile offender's history of delinquency or previous commitment;

I. the committing judge's recommendations;

J. medical and psychological reports;

K. the recommendations of the facility and of any department staff (such as JPPOs) who have worked with the juvenile offender;

L. the availability of community resources to assist the juvenile offender;

M. information supplied by victims; and

N. the nature of the offense for which the juvenile offender is presently committed.

[22.510.100.12 NMAC - Rp JPB Rule No. 1, Section 3.B, 06/15/04]

22.510.100.13 GENERAL AND SPECIAL CONDITIONS OF PAROLE

A. The board determines the general and special conditions of parole. The board may add, delete or change any of the general or special conditions of parole.

B. The following are general conditions of parole to be included in the parole agreement:

(1) "I must maintain myself as a law-abiding citizen by following all municipal, county, state and federal laws, ordinances and orders, including laws and rules of Indian tribal councils when applicable. I must follow all school policies and regulations."

(2) "I must keep my parole officer, my parents, custodian or guardian informed of my whereabouts at all times."

(3) "I will be required to have written permission of my parole officer if I wish to temporarily leave the county to

which I have been paroled."

(4) "I will inform my parole officer if I am charged, arrested or detained by any law enforcement of juvenile authority, within a reasonable period of time, but no later than forty-eight (48) hours after arrest."

(5) "My parole officer has the right to visit me at home, school or place of employment at any time."

(6) "I will follow curfew rules established by my parole officer. Curfew rules proposed by parents, guardian or custodian will be worked out in cooperation with the parole officer."

(7) "I shall not use, possess, sell or transfer marijuana, narcotics or any other dangerous or illegal substances which have not been prescribed for me by a physician. I will participate in any examination requested by my parole officer regarding possible use of such substances."

(8) "I will not possess or consume beer or any alcoholic beverage at any time while on parole. I will not enter any business commonly known as a bar, lounge or liquor store."

(9) "I must have the permission of my parole officer before applying for a marriage license or filing for divorce or legal separation."

(10) "I must not associate with anyone with whom my parole officer forbids me to associate. This may include anyone with a criminal or delinquent record, anyone associated with a gang and anyone that my parole officer or the board deems to be detrimental to my successful completion of parole."

(11) "I cannot own, possess, sell, use or distribute firearms or other deadly weapons."

(12) "I will not endanger the person or property of someone else."

(13) "I will abide by all reasonable instructions of my parole officer."

C. The board assigns special conditions of parole regarding:

(1) person, city, county and state into whose custody a juvenile is paroled;

(2) employment;

(3) school;

(4) counseling, including career counseling;

(5) volunteer community service;

(6) associations; and

(7) any other special conditions the board deems appropriate.

[22.510.100.13 NMAC - Rp JPB Rule No. 1, Section 8.A, 06/15/04]

22.510.100.14 PROCESSING THE BOARD'S PAROLE DECISIONS

A. Parole granted.

(1) If the board decides to grant parole, the juvenile offender is informed at

the parole hearing of the board's decision and of the general and special conditions of parole.

(2) The juvenile offender must agree and sign a written statement of the general and special conditions of parole (the parole agreement), in order for parole to commence. If the juvenile offender refuses to agree and/or sign the parole statement, parole is denied. The board provides a copy of the signed parole agreement to the parolee at the parole hearing, and mails a copy to the parolee's parent, guardian or custodian within forty-eight hours.

(3) A certificate of parole is prepared, and a copy is provided to the parolee at the parole hearing.

(4) After parole is granted, and before the parolee leaves the facility premises, he receives a parole orientation by department staff, including a review of the conditions of parole to assist the parolee's understanding of his obligations.

B. Parole denied. If the juvenile offender is denied parole, the board immediately provides the juvenile offender with a written statement of reasons for denial. A copy of the statement is mailed to the juvenile offender's parent, guardian or custodian within forty-eight hours after the decision is made to deny parole. The board may deny parole when:

(1) there is substantial risk the juvenile offender will not follow the conditions of parole;

(2) the juvenile offender has not maintained sufficient progress to justify parole at the time of the hearing; or

(3) there exist any other reasons the board deems sufficient to deny parole.

C. Parole deferred. Parole may be approved pending the occurrence of specified conditions or events, such as completion and acceptance of an approved parole plan. If parole is deferred, the board provides the juvenile offender with written reasons. The juvenile offender does not sign the parole agreement at the hearing. Instead, the juvenile offender signs the parole agreement when parole commences. A copy of the deferred parole agreement is immediately provided to the juvenile offender, and is mailed to the juvenile offender's parents, guardians or custodian within forty-eight hours. Examples of situations in which parole may be granted on a deferred basis include:

(1) the parole plan or the facility's recommendations are acceptable but incomplete; or

(2) job training, group/foster home placement or out-of-state placement is anticipated but cannot immediately commence.

D. Notifications. At the conclusion of the parole hearing, a list of

parolees is faxed to the department's chief JPPOs and to the AODA.

[22.510.100.14 NMAC - Rp JPB Rule No. 1, Section 3.D, 06/15/04]

22.510.100.15 DURING THE PAROLE TERM

A. The department supervises parolees.

B. Modification of parole conditions:

(1) The board may modify any of the terms of the parole agreement. The board notifies the parolee and the parolee's JPPO of any such modifications.

(2) JPPOs may not modify any of the special conditions of parole.

(3) In an emergency situation, the JPPO may temporarily approve a change of residency without prior approval from the board. The JPPO must notify the board as soon as practicable. If the situation permits, the JPPO should telephone the board's director or chairman for verbal approval prior to taking this emergency action.

(4) The JPPO must submit a notification of parole change to the board for approval of any proposed modifications to the written parole agreement.

C. Absconders.

(1) When a parolee conceals or absents himself from parole supervision, the board may declare him an absconder.

(2) The period of time during which a parolee absconds from parole supervision shall toll (stop) all time limits for the filing of a petition to revoke parole and shall toll further credit for time served while on parole.

(3) If an absconder is apprehended, the number of days during which he was declared to be an absconder shall be added to the expiration date of his commitment. If the parolee has been discharged from parole pursuant to Section 22.510.100.18 NMAC, this subsection shall not apply.

[22.510.100.15 NMAC - Rp JPB Rule No. 1, Section 5.A-D, 06/15/04]

22.510.100.16 VIOLATIONS OF PAROLE CONDITIONS:

The JPPO informs the board's staff when a parolee is alleged to have violated any general or special conditions of parole. The JPPOs and the board's staff confer regarding the appropriate course of action in each circumstance.

A. After consultation, there may be a decision to allow the parolee to continue on parole. The JPPO's quarterly report to the board will document the justification for the decision to continue parole.

B. The board may issue a reprimand for any parole violation, upon recommendation of the department or upon

its own initiative when appropriate. The reprimand may be oral or written. Reprimands may be issued during a parole revocation proceeding if the board has decided, after a preliminary parole violation inquiry or final parole violation hearing, not to revoke parole

C. The board may modify the parole agreement to address less serious violations for which parole revocation proceedings are not immediately appropriate.

D. If after consulting with board, there is a decision to begin revocation proceedings against the parolee, a preliminary parole violation report is prepared. The standard procedures for preliminary parole violation hearings must be followed. [22.510.100.16 NMAC - Rp JPB Rule No. 1, Section 5.E, 06/15/04]

22.510.100.17 PAROLE VIOLATION PROCEEDINGS

A. Preliminary parole violation hearing. The purpose of the preliminary parole violation hearing is to determine whether there is probable cause (through a fact-finding process) to conduct a final parole violation hearing.

(1) The department conducts the preliminary parole violation hearing. The department provides the following information to the board prior to the preliminary parole violation hearing:

(a) notice of preliminary parole violation hearing;

(b) parole violation report; and

(c) notice of rights.

(2) If there is a finding of probable cause at the preliminary parole violation hearing, a retake warrant is issued. The juvenile is returned to the facility from which he was paroled pending the final violation hearing before the board. The hearing examiner sends the board a copy of the parole violation report and the testimony, facts and conclusions, with the retake warrant, within ten days of the preliminary parole violation hearing. The hearing examiner may make recommendations for the board's consideration at the final violation hearing.

(3) If the hearing examiner does not find probable cause at the preliminary parole violation hearing, the parolee is released and continues parole on the terms of the parole agreement, including any modifications that have been approved by the board. A report is submitted to the board within ten working days of the preliminary parole violation hearing.

B. Final parole violation hearing.

(1) The final parole violation hearing is conducted by the board. The board makes the final determination whether to continue the parole and/or

whether and how to modify the terms of the parole agreement.

(2) A final parole violation hearing will be held within ninety days from the date the department retakes custody of the parolee. The board can make reasonable exceptions to this rule.

(3) The board requests the New Mexico public defender to represent the parolee, unless a private attorney is secured by the parolee.

(4) The board notifies the parolee and attorney of the hearing date at least ten working days in advance.

(5) The board may consider and grant requests for postponement or continuance from the parolee or attorney; time limits will be adjusted accordingly.

(6) The parolee cannot relitigate issues determined in the preliminary parole violation hearing.

(7) At the final parole violation hearing, the parolee is entitled to the following:

- (a) right to silence;
- (b) right to attorney;
- (c) right to present evidence and witnesses;

(d) right to confront and cross-examine adverse witnesses (except where the board determines, in writing, that the witnesses are in danger of harm or there is other good cause for not allowing confrontations);

(e) right to be informed of the evidence against him;

(f) right to a neutral hearing board; and

(g) right to a written statement by the board of the reasons for revoking parole.

(8) The board's chairman grants permission to call witnesses not heard at the preliminary parole violation hearing. Such requests may be made by either the parolee or by board members.

(9) The board's chairman determines the admissibility of evidence. Judicial rules of evidence shall not apply.

(10) All materials admitted in the preliminary parole violation hearing are admitted at the final violation hearing.

(11) The board may accept or reject the hearing examiner's recommendations and may enter any other disposition it deems appropriate.

(12) After the hearing is concluded, the board presents its decision to the parolee, attorney, parents, guardians or custodians.

(13) If parole is revoked, the parolee is remanded to the custody of the juvenile facility.

(14) If the violated conditions of parole resulted from the commission of a new delinquent offense, the juvenile will not be re-scheduled for a parole hearing.

(15) If parole is revoked and the parolee is re-paroled in the same action, the parolee will be required to abide by all original or modified conditions of parole. This new release date will be determined by the board. The institution shall conduct a re-parole orientation.

(16) The final parole violation hearing is electronically recorded.

[22.510.100.17 NMAC - Rp JPB Rule No. 1, Section 7, 06/15/04]

22.510.100.18 PAROLE AND FACILITY DISCHARGE PROCEDURES

A. Request for discharge from parole: The parolee's JPPO is responsible for preparing a supervision summary report prior to any requested or mandatory discharge. Any such report shall be submitted to the board at least thirty days prior to the requested or mandatory discharge date. The report shall include a detailed supervisory history setting forth the parolee's performance on parole, and recommendations from the JPPO for a satisfactory or unsatisfactory discharge from parole discharge.

B. Types of parole discharges. The following types of parole discharges may be made:

(1) Satisfactory discharge: The board issues a satisfactory discharge if the juvenile's performance on parole has been acceptable in the board's judgment.

(2) Unsatisfactory discharge: The board issues an unsatisfactory discharge when and if:

(a) the parolee's performance on parole has been unacceptable in the board's judgment;

(b) an absconder is over age 18, is a non-violent offender, three months have elapsed since the original custody expiration date, and the JPPO is recommending a discharge;

(c) the parolee has been placed on adult probation;

(d) the parolee has been sentenced to a new commitment to a juvenile facility;

(e) the parolee has been sentenced to a commitment to a state or federal prison; or

(3) Technical discharge: The board may issue a technical discharge when and if:

(a) the juvenile offender dies;

(b) the juvenile offender has been recommended for residential treatment pursuant to the Children's Mental Health and Developmental Disabilities Act, 1978 NMSA Section 32A-6-1 et. seq., and it is expected that he will remain so committed until his custody expiration date; or

(c) the board determines that the juvenile offender is incapable of function-

ing on parole because of physical, mental or other impairments.

C. Discharge requests made by facility.

(1) The facility may request a simultaneous discharge from both the facility and parole. Every facility discharge request shall include a detailed summary of the juvenile's history in the facility, a statement of the reasons the facility believes that such a discharge is appropriate, and a recommendation as to the type of discharge.

(2) The facility submits a discharge notification to the board at least thirty days prior to the juvenile offender's custody expiration date.

(3) Facility requests for discharge to take effect prior to the juvenile offender's custody expiration date shall be placed on the regular or special hearings agenda.

D. Types of institutional discharge.

(1) Administrative discharge: The board issues a discharge certificate on the juvenile offender's custody expiration date.

(2) Satisfactory discharge: The board issues a satisfactory discharge when performance during commitment is acceptable in the board's judgment.

(3) Unsatisfactory discharge: The board issues an unsatisfactory discharge when and if:

(a) the juvenile offender's performance during his commitment to the facility has been unacceptable in the board's judgment;

(b) an absconder is over age 18, is a non-violent offender, and three months have elapsed since the original custody expiration date;

(c) the juvenile is placed on adult probation for an offense while serving the present juvenile commitment;

(d) the juvenile offender is sentenced to a new commitment to a juvenile institution for an offense committed while serving the present commitment; or

(e) the juvenile offender has been sentenced to a state or federal prison for an offense committed while serving the present commitment.

(4) Technical discharge. The board issues a technical discharge from the institution when and if:

(a) the juvenile offender dies while serving time in the facility's custody;

(b) the juvenile offender has been committed for residential treatment pursuant to the Children's Mental Health and Developmental Disabilities Act, 1978 NMSA Section 32A-6-1 et seq., and it is expected that he will remain so committed until his custody expiration date; or

(c) the board determines that the juvenile offender is incapable of function-

ing at the facility because of physical, mental or other impairments.

[22.510.100.18 NMAC - Rp JPB Rule No. 1, Section 6, 06/15/04]

22.510.100.19 INFORMATION REQUIRED FOR BOARD DECISIONS: In order for the board to effectually discharge its duties, the board obtains the following information from the facilities:

A. Prior to the initial administrative review (the forty-day review):

(1) a complete history of the juvenile offender's delinquent acts and any resulting consequences;

(2) the juvenile offender's family history;

(3) the juvenile offender's social history;

(4) the juvenile offender's academic, vocational and educational history;

(5) the juvenile offender's psychological and psychiatric history, including all diagnostic center reports;

(6) relevant medical reports for the juvenile offender;

(7) the commitment order for the current commitment and petition;

(8) the pre-disposition report for the current commitment;

(9) the facility's plan for care and rehabilitation;

(10) the facility's identification sheets or case record sheets;

(11) designation of home study recipient; and

(12) the juvenile offender's social security number.

B. After the initial administrative hearing (the forty-day review):

(1) monthly or bi-monthly progress reports and SDM, including reports and SDM on those juvenile offenders who are in programs outside the facility;

(2) psychological and psychiatric reports and evaluations on the juvenile offender, including for juvenile offenders who are in programs outside the facility;

(3) homestudies and any facility requests for homestudies;

(4) number of days during the juvenile offender's commitment that the juvenile offender absconded or escaped, to be added to commitment time;

(5) a current and updated facility face sheet;

(6) any court-ordered restitution payment plan and/or social restitution plan;

(7) a wilderness and urban experience evaluation report if applicable;

(8) special incident reports, such as reports of the juvenile offender having been placed in a crisis intervention unit or adjustment unit;

(9) any information relating to an

out-of-state parole plan, as required by interstate compact provisions;

(10) all information pertaining to furloughs, passes, transfers and pre-parole releases; and

(11) any special reports that the board may request.

C. Thirty days prior to the regularly-scheduled parole hearings, the board obtains an updated parole recommendation report from the facility for each juvenile offender on the agenda. For special parole hearings or for juvenile offenders who are added to the agenda, the board receives the updated parole recommendation report as soon as practicable. The updated parole recommendation report includes the following information:

(1) summary of behavior at the facility;

(2) summary of mental health interventions/extra-curricular activity;

(3) academic summary/vocational progress;

(4) family involvement;

(5) justification for parole;

(6) finalized parole plan recommendations from the facility;

(7) living arrangements.

(8) a report on the parent/guardian/custodian's attitude regarding the juvenile offender's supervision;

(9) education, including but not limited to, written confirmation from school officials or the juvenile offender's JPPO as to anticipated school acceptance and grade level. Any special educational programs should be outlined in the home study update. If school officials are not available during semester break, the board may parole the juvenile offender and request the information within fifteen days of the start of the next regular school semester;

(10) employment, including a letter from an employer setting forth the place of work, the beginning date if known, the number of hours, work schedule and rate of pay. Information about employment arrangements may be made in the home study update or through the juvenile offender's testimony;

(11) community service, including the name and location of the program and the number of hours of service recommended. The board may consider such service as a complement or alternative to employment;

(12) counseling programs, including alcohol, substance, drug, individual therapy, group therapy, mental health, sex offenders and family counseling. The counseling information shall specify particular programs and costs when possible;

(13) restitution, when court ordered, is to be coordinated through the department prior to parole release;

(14) a report on the status of the juvenile offender's siblings and juvenile/adult relatives known to law enforcement authorities;

(15) other community resources to be utilized to help the juvenile offender;

(16) the JPPO's assessment of the juvenile offender's home situation;

(17) an assessment of the community's reaction to the juvenile offender's release and return to that community; if the juvenile offender was committed for a serious or violent offense, an evaluation shall be made regarding the effect parole release might have on the community and the juvenile offender's parole adjustment period; for purposes of this provision, serious offenses include those set forth in 1978 NMSA Section 31-22-8, including murder, kidnapping, aggravated battery, dangerous use of explosives, felony, criminal sexual penetration, robbery, aggravated burglary and aggravated arson, whether described as crimes or delinquent acts;

(18) a report of the JPPO's interviews with the juvenile offender and facility staff;

(19) such additional information that the board or facility may request in the particular case;

(20) if the juvenile probation/parole office reports unfavorably on any aspect of the facility's proposed parole plan, any recommendations for alternatives to the proposed plan;

(21) if the parole plan involves independent living, a full description of the proposed living and financial arrangements, including a budget breakdown; and

(22) if an out-of-state parole is proposed, all information required under applicable interstate compact provisions.

D. After parole release, the board receives the following reports and information:

(1) quarterly progress reports assessing the progress of the parolee in the previous three months;

(2) notification of parole program change, a form used by the JPPO to secure permission from the board for change of residence; the board must be notified at least ten days prior to the change in order to allow the board sufficient time to approve or deny the change, unless other arrangements are made;

(3) supervision summary report, used to request the discharge of a parolee from parole; and/or

(4) reports of parole violations.

[22.510.100.19 NMAC - Rp JPB Rule No. 1, Section 4, 06/15/04]

22.510.100.20 CONFIDENTIALITY: All juvenile records in the possession of the board and/or its staff are maintained

confidential in accordance with 1978 NMSA Section 32A-2-32.

[22.510.100.20 NMAC - N, 06/15/04]

HISTORY OF 22.510.100 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the State Records Center:

JPB Rule No. 1, New Mexico Juvenile Parole Board Rules and Regulations, filed 8/2/85.

JPB Rule No. 1, New Mexico Juvenile Parole Board Rules and Regulations, filed 8/13/92.

History of Repealed Material:

JPB Rule No. 1, New Mexico Juvenile Parole Board Rules and Regulations, filed 8/13/92 - repealed effective 6/15/04.

NEW MEXICO COMMISSIONER OF PUBLIC LANDS

New Mexico State Land Office

Notice of Repealed Rule

Patrick H. Lyons, New Mexico Commissioner of Public Lands, hereby gives notice to repeal State Land Office Rule: Title 19 - Natural Resources and Wildlife, Chapter 2 - State Trust Lands, Part 21 - Land Exchanges (19.2.21 NMAC), effective June 15, 2004, and that it is hereby replaced with Title 19 - Natural Resources and Wildlife, Chapter 2 - State Trust Lands, Part 21 - Land Exchanges (19.2.21 NMAC) effective June 15, 2004.

NEW MEXICO COMMISSIONER OF PUBLIC LANDS

TITLE 19 N A T U R A L RESOURCES AND WILDLIFE CHAPTER 2 STATE TRUST LANDS PART 21 LAND EXCHANGES

19.2.21.1 ISSUING AGENCY:
Commissioner of Public Lands - New Mexico State Land Office.
[19.2.21.1 NMAC - Rp, 19.2.21.1 NMAC, 06/15/04]

19.2.21.2 SCOPE: This part pertains to all exchanges of lands held in trust by the commissioner of public lands under the terms of the Enabling Act and subsequent legislation except land exchanges with the United States department of the interior. In cases of land exchanges with the state, its agencies or political subdivisions, or federal government agencies other than

the department of the interior, the commissioner shall determine on a case-by-case basis whether to apply the requirements of Paragraph (6) of Subsection B of 19.2.21.9 NMAC, Subsection C of 19.2.21.9 NMAC, Subsection D of 19.2.21.9 NMAC and Subsection A of 19.2.21.10 NMAC that call for publication of requests for exchange proposals and competitive selection. This part does not apply to exchanges with the United States department of the interior except to the extent that the commissioner decides to apply any portion of this part to a specific exchange to ensure substantial conformity with the requirements of the Enabling Act.

[19.2.21.2 NMAC - Rp, 19.2.21.2 NMAC, 06/15/04]

**19.2.21.3 S T A T U T O R Y
AUTHORITY:** The commissioner's authority to manage and dispose of trust lands is found in N.M. Const. Art. XIII, Section 2, and in Section 19-1-1 NMSA 1978. The authority to promulgate this part is found in Section 19-1-2 NMSA 1978. The authority to designate Carrie Tingley children's hospital as the beneficiary institution with respect to newly acquired trust lands for which no other beneficiary is specified is found in Section 23-2-9 NMSA 1978.

[19.2.21.3 NMAC - Rp, 19.2.21.3 NMAC, 06/15/04]

19.2.21.4 D U R A T I O N :
Permanent.
[19.2.21.4 NMAC -Rp, 19.2.21.4 NMAC, 06/15/04]

19.2.21.5 EFFECTIVE DATE:
June 15, 2004, unless a later date is cited at the end of a section.
[19.2.21.5 NMAC - Rp, 19.2.21.5 NMAC, 06/15/04]

19.2.21.6 OBJECTIVE: The objective of this part is to provide for the orderly and lawful exchange of trust lands when such exchanges will result in a material benefit to the trust not otherwise available, and when the exchange of such trust lands would benefit the trust more than their retention.
[19.2.21.6 NMAC - Rp, 19.2.21.6 NMAC, 06/15/04]

19.2.21.7 DEFINITIONS: The following terms are used in this part as defined below:

A. "Beneficiary institutions" means those institutions or other entities specified in Section 19-1-17 NMSA 1978, as amended, or other provisions of statute for whose benefit trust lands are held.

B. "Commissioner" means the New Mexico commissioner of public lands or the commissioner's agents or employees who are authorized to act in the commissioner's stead in a particular transaction.

C. "Cultural property" means a structure, place, site or object having historic, archaeological, scientific, architectural or other cultural significance and included on or eligible for inclusion on either the New Mexico register of cultural properties pursuant to the New Mexico Cultural Properties Act, NMSA 1978, Sections 18-6-1 through 18-6-17, or listed on or eligible for listing on the national register of historic places pursuant to the National Historic Preservation Act, 16 U.S.C. Section 470.

D. "Description" when used in connection with describing lands, means a description given in aliquot parts in such a way as to delineate each full or partial quarter quarter section and each full or partial lot and the acreage of each, or a description in some other form approved by the commissioner. A description shall include a description of all encumbrances and of all easements or other servitudes burdening or benefiting the property except to the extent that this requirement is waived by the commissioner.

E. "Exchange" means a conveyance of trust lands by the commissioner to a party in exchange for a conveyance of non-trust lands by that exchange party to the commissioner.

F. "Exchange agreement" means a formal, written agreement entered into between the commissioner and an exchange party for an exchange of trust lands and non-trust lands.

G. "Exchange applicants" means a governmental or private entity, including an Indian tribe or pueblo, that has filed an application to exchange lands or an exchange proposal, or both, under this rule and that owns fee simple absolute title, or the right to acquire fee simple absolute title, to the surface estate, and/or the mineral estate in lands proposed for exchange.

H. "Exchange party" means an exchange applicant whose exchange proposal has been accepted by the commissioner and who has entered into an exchange agreement with the commissioner.

I. "Exchange proposal" means a proposal for an exchange submitted to the commissioner by an exchange applicant in conformance with the requirements of this rule and the provisions of any published request for exchange proposals.

J. "Hazardous materials" means any substance or material that is

governed or regulated by any statute, regulation, rule, order, finding or directive promulgated, issued or enacted by a federal, state or local governmental entity and that relates to industrial hygiene or environmental protection, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. Sections 9601-9675 and any successor provisions, and the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Sections 6901-6992 and any successor provisions.

K. "Improvements" means any of the following:

(1) any item of tangible property developed, placed, created or constructed on the lands involved including, but not limited to, buildings, roadways, equipment and fixtures;

(2) water rights appurtenant to the lands involved, including without limitation any water rights developed or used on the land involved for the benefit of that land; and

(3) any tangible or intangible property, rights, approvals or privileges obtained or developed for the benefit of, or made appurtenant to, the lands involved that are designated as improvements by the commissioner.

L. "Improvement value" means the value of improvements placed on trust lands, which value is finally determined or accepted by the commissioner.

M. "Non-trust lands" means lands other than trust lands, located in New Mexico.

N. "Qualified appraiser" means a state licensed or certified real estate appraiser as set forth in Section 61-30-3, 61-30-11 and 61-30-12 NMSA 1978 or any successor provisions of law.

O. "Schedule of fees" means a written schedule of administrative fees established by the commissioner and available to the public, which the commissioner in his discretion may change from time-to-time.

P. "State" means the state of New Mexico.

Q. "State land office" means the New Mexico state land office.

R. "True value" means fair market value as determined by any objective, reliable and commercially acceptable method including but not necessarily limited to appraisal by an appraiser.

S. "Trust" means the trust established by the Enabling Act (Act of June 20, 1910, 36 Statutes at Large 557, Chapter 310), and that trust's assets, which are administered through the state land office by the commissioner.

T. "Trust lands" means all lands with all appurtenant rights and

privileges, owned by the trust as shown in the state land office master title tract books or other records of the state land office.

U. "Working day" means any day other than a Saturday, a Sunday or a day on which the state land office is required to be closed. [19.2.21.7 NMAC - Rp, 19.2.21.7 NMAC, 06/15/04]

19.2.21.8 EXCHANGE STANDARDS:

A. The commissioner may enter into an exchange when the commissioner determines that the exchange will result in a material benefit to the trust and the purpose of the exchange would serve the best interests of the trust.

B. Trust lands may be exchanged for non-trust lands owned in fee simple absolute by a governmental entity or by a private entity or entities. The commissioner cannot accept in an exchange any lands subject to a mortgage, lien or other encumbrance.

C. In any exchange, the trust must receive at least true value for the trust lands that are conveyed to an exchange party. To meet this requirement, the commissioner shall appraise the trust lands and the non-trust lands proposed to be exchanged at their true value and can only proceed with an exchange after first determining that the non-trust lands to be received by the state are of equal or greater value to the trust. Such an appraisal may be conducted, at the commissioner's discretion, (1) by a qualified state land office employee; (2) by a qualified appraiser selected or approved in advance by the commissioner; or (3) by a qualified appraiser not selected or approved in advance by the commissioner but whose appraisal report is reviewed by either a qualified state land office employee or a different qualified appraiser and such review arrives at an independent assessment of value. The commissioner may select another method of determining true value if he determines that such method is in the best interests of the trust and conform to law. This provision shall not be construed as prohibiting the use of a running exchange account as provided in Subsection F of this section. Appraisals conducted or received by the commissioner in connection with an exchange or proposed exchange under this rule, as well as the commissioner's review of any such appraisal, shall be considered confidential information and not public information until the commissioner has selected an exchange proposal as provided in 19.2.21.10 NMAC. The commissioner may waive confidentiality in the case of any appraisal or any review of an appraisal if he determines that it is in the best interest of the trust to do so.

D. The non-trust lands received by the commissioner in an exchange and any proceeds therefrom shall be applied to and become a part of the trust for which the trust lands exchanged by the commissioner were originally granted. Provided, however, that an exchange applicant may, in connection with a proposed exchange, offer to convey to the state, as a bonus, land in addition to that which will provide true value to the trust. In such a case, if the commissioner and the applicant enter into an exchange agreement as provided in 19.2.21.12 NMAC, and the exchange agreement so provides and other requirements are met, the additional land offered as a bonus may be designated to the Carrie Tingley crippled children's hospital trust in accordance with NMSA 1978, Section 23-2-9 (1989).

E. A single exchange transaction may involve more than one exchange party and may involve trust lands held in trust for the benefit of more than one beneficiary institution. When the exchange involves the commissioner conveying lands held in trust for more than one beneficiary institution, the non-trust lands received by the commissioner in the exchange shall be apportioned to the different beneficiary institutions in such a way that the value of each beneficiary institution's interest in the newly acquire land is proportional to its interest in the trust lands conveyed, subject to the same proviso for designation of lands offered as a bonus to the Carrie Tingley crippled children's hospital trust set forth in Subsection D above.

F. When the commissioner determines that the best interests of the trust will be promoted thereby, he may, in his discretion, enter into an agreement with a state agency or entity or a political subdivision of the state, to engage in a series of exchanges over a period of time. Such an agreement will provide for a running exchange account in which both agencies will, among other things:

(1) account for the value of all properties exchanged;

(2) make provision for differences in the property values of one exchange to be offset against property values in subsequent exchanges;

(3) provide for methods of discharge and reduction of account balances;

(4) provide for interest on account exchange balances which remain undischarged for over one year;

(5) provide for interagency annual reconciliation of account balance figures; and

(6) provide for termination of the agreement and a method for final resolution of outstanding account balances.

G. The commissioner shall

convey the trust lands being exchanged using such instruments of conveyance as he deems best, which instruments shall contain such reservations to the trust as are required by law and as are deemed appropriate by the commissioner. Conveyances of trust lands shall be subject to all valid existing rights at the date of conveyance.

(1) A conveyance document by which the commissioner conveys trust lands shall be similar in content to a state land office patent and may be entitled "exchange patent."

(2) A conveyance document by which the commissioner conveys trust land shall reflect any existing oil, gas, mineral or geothermal leases on the property being conveyed by the commissioner.

H. In any exchange, the commissioner shall receive conveyances of non-trust lands by instruments containing acceptable guarantees of title such as patent, government deed or warranty deed, accompanied by such other documents evidencing marketable and unencumbered title as are deemed appropriate by the commissioner, including, if not waived by the commissioner, policies of title insurance.

(1) Such instruments shall contain language stating that the conveyance is made for and in consideration of the exchange of trust lands legally described in the instrument.

(2) An instrument of conveyance executed by individual exchange parties shall disclose the marital status of the exchange party and shall also be executed by the spouse of a married exchange party.

(3) Instruments of conveyance received by the commissioner in exchanges shall be executed, acknowledged and filed of record with the state land office and, if appropriate, with the counties in which the non-trust lands conveyed by such instruments are located, and the exchange party shall pay all costs and fees associated with such filing.

I. Exchange parties shall pay to the commissioner, for the benefit of the owner of improvements located on the trust lands proposed for exchange, the improvement value as determined by an appraisal made or approved by the commissioner. This requirement does not apply where the exchange party is the owner of the improvements. The provisions of this subsection also shall not apply to improvements placed on trust lands for the exploration, development or production of oil and gas, geothermal resources, sand, gravel, coal, shale, clay, building stone or materials, potassium, sodium, phosphorus, salt or any other minerals or natural deposits of whatsoever kind located in, under or upon the trust lands proposed for exchange where only the surface of the trust lands is pro-

posed for exchange.

(1) In lieu of payment of improvement value, an exchange party may file with the commissioner a bill of sale from, or a waiver of payment signed by, the owner of the improvements.

(2) The commissioner may require the costs of improvement appraisal to be paid by the exchange applicant or exchange party.

(3) For purposes of compensation, improvements shall include:

(a) those placed, created, developed or moved upon the trust lands in compliance with Section 19-7-51 NMSA 1978;

(b) those placed, created, developed or moved upon the trust lands prior to March 1, 1955, whether or not their values exceed the amounts prescribed by Section 19-7-51 NMSA 1978; and

(c) those placed, created, developed or moved upon the trust lands on or after March 1, 1955, but prior to March 1, 1975, and subsequently approved in writing by the commissioner.

(4) Property placed, created, developed or moved upon leased trust lands on or after March 1, 1955, by a lessee in violation of Section 19-7-51 NMSA 1978 and not subsequently approved by the commissioner, may be approved as an improvement by the commissioner if the commissioner determines it benefits the trust lands on which it is located for purposes of a proposed exchange. For purposes of compensation paid to the owner of such improvements, however, an undivided twenty-five percent of the value of all such permanent improvements that are valued in excess of the amounts specified in Section 19-7-51 NMSA 1978 shall be and remain a part of the trust lands offered for exchange.

(5) Property placed, created, developed or moved on trust lands by mistake on or after March 1, 1975, by one not acting in the capacity of a lessee shall not be recognized as an improvement by the commissioner for purposes of compensation paid to the owner of the property unless:

(a) the commissioner determines the property was placed on the trust land in the good faith, non-negligent belief it was being located on adjacent non-trust land; and

(b) the property enhances the value of the trust land for purposes of the proposed exchange.

J. Exchange applicants or exchange parties shall pay all costs of exchanges, including but not necessarily limited to costs of publication, land appraisal, appraisal of improvements, surveying and recording, unless such requirement is waived by the commissioner. The commissioner may require an exchange applicant or exchange party either to pay such costs to

the commissioner for payment to service providers or to pay such costs directly to the providers.

[19.2.21.8 NMAC - Rp, 19.2.21.8 NMAC, 06/15/04]

19.2.21.9 EXCHANGE PROPOSALS AND PROCEDURES:

A. A proposed exchange may be initiated either by an applicant or by the commissioner. The commissioner in his discretion may engage in preliminary informal discussions or other preliminary communications with potential exchange applicants prior to any exchange application or exchange proposal being submitted and prior to any publication soliciting exchange proposals. The parties' representations made during any such preliminary communications shall not be binding.

B. Exchange procedure initiated by applicant:

(1) A party interested in exchanging non-trust land may initiate an exchange procedure by filing with the commissioner an initial application to exchange land on a form prescribed by the commissioner, accompanied by a non-refundable application fee set by the commissioner in a schedule of fees. The initial application shall include the identity and address of the applicant; a legal description of the non-trust lands proposed to be exchanged; the estimated market value of the non-trust lands; the current uses of the non-trust lands; ownership of the non-trust lands; a description of any known environmental or cultural properties issues related to the non-trust lands; a legal description of the trust lands that the applicant seeks to acquire; an estimate of the value of such trust lands; the applicant's reason for wishing to pursue the exchange; and such other information as the commissioner may request in writing. The commissioner may waive any of the foregoing application requirements if he determines in his discretion that so doing is in the best interest of the trust.

(2) Following submission of an initial application, the commissioner will make a determination as to whether further investigation of the suggested exchange is warranted and shall so inform the exchange applicant. If the commissioner determines that the suggested exchange does not offer sufficient potential benefit to the trust, the exchange process will terminate and the exchange applied for will not occur.

(3) If the commissioner determines that further investigation of the suggested exchange is warranted and the exchange applicant wishes to proceed, the exchange applicant shall submit to the commissioner a sworn and notarized exchange proposal on a form prescribed by the commissioner, along with a deposit set by the

commissioner in accordance with a schedule of fees, to be applied to exchange costs. The exchange applicant will not be entitled to a refund of any portion of the deposit whether or not an exchange takes place, except that if the commissioner enters into an exchange of the trust lands proposed by the applicant with a party other than the applicant, then such exchange party will be required to reimburse the amount of the deposit for payment to the applicant. In addition, the commissioner may refund all or part of a deposit if he determines that it is in the best interest of the trust to do so.

(4) Each exchange proposal shall include the following:

(a) a description acceptable to the commissioner of the non-trust lands proposed for exchange and the total acreage;

(b) a survey plat of the non-trust lands proposed for exchange based upon a bona fide field survey and prepared and certified by a licensed New Mexico land surveyor;

(c) an appraisal conforming to the uniform standards of professional appraisal practice, and any other reasonable standards set by the commissioner, of the non-trust lands proposed for exchange, performed by a qualified appraiser selected or approved by the commissioner;

(d) a complete listing of improvements on the non-trust lands proposed for the exchange, along with their value and the basis on which such value has been determined;

(e) a description of any water rights located on or appurtenant to the non-trust lands proposed for exchange, including priority, place and purpose of use, point of diversion, and whether the rights have been adjudicated or are certified and licensed, and copies of documents establishing or verifying such water rights;

(f) the identification of any leases, easements or other interests affecting the non-trust lands proposed for exchange and the owners and terms of such interests and copies of documents establishing or verifying such interests;

(g) a complete listing of any known cultural properties located on the non-trust lands offered for exchange and any available documentation thereof;

(h) a complete description of any environmental hazards or threatened or endangered species located on or in close proximity to the non-trust lands offered for exchange and any available documentation thereof;

(i) the exchange applicant's statement that at the time of exchange, the non-trust lands proposed for exchange will be owned by the applicant in fee simple absolute and that there will be no claims, mortgages or other liens, charges or liabilities

attached to the non-trust lands;

(j) documentation of title to the non-trust lands proposed for exchange including a title insurance policy commitment;

(k) the applicant's statement whether or not the non-trust land offered for exchange include mineral rights in such lands, a statement of who owns the mineral rights, and any available documentation of mineral rights ownership in such lands;

(l) the agreement of the exchange applicant to deposit with the commissioner, upon the commissioner's selection of the applicant's exchange proposal, either an amount determined by the commissioner to be the improvement value due to the owner of improvements located on the trust land sought in the exchange, or a bill of sale or waiver of payment signed by the owner of the improvements;

(m) if the applicant proposes to acquire particular trust lands, a description acceptable to the commissioner of the trust lands that the applicant seeks to acquire in the exchange and the total acreage;

(n) if the applicant proposes to acquire particular trust lands, a survey plat of the trust lands that the applicant seeks to acquire in the exchange based upon a bona fide field survey and prepared and certified by a licensed New Mexico land surveyor;

(o) if the applicant proposed to acquire particular trust lands, an appraisal conforming to the uniform standards of professional appraisal practice, and any other reasonable standards set by the commissioner, of the trust lands that the applicant seeks to acquire in the exchange;

(p) if the applicant proposes to acquire particular trust lands, any other information or documentation regarding those trust lands which the commissioner determines is necessary or helpful to adequately evaluate the proposal, which may include but need not be limited to, information and documentation regarding water rights, environmental hazards, threatened or endangered species, and/or cultural properties; and

(q) the commissioner, in his discretion, may waive or modify any of the foregoing exchange proposal requirements, unless otherwise governed by law, if he determines that such waiver or modification is in the best interest of the trust.

(5) Before proceeding further with the exchange procedure set forth in this rule, the commissioner may require an exchange applicant to supplement its exchange proposal with any of the following:

(a) the exchange applicant's affidavit and/or other documentation regarding: (i) any water rights that are the subject of application, permit, certificate, license or

declaration, whether partially or fully developed, on or appurtenant to the lands proposed for exchange; (ii) any transfer, lease or change of ownership of appurtenant water rights by any exchange party or its predecessors in title within the previous five years; and (iii) any liens or encumbrances against such appurtenant water rights, along with any available documentation;

(b) deposit with the commissioner of an amount sufficient to pay the value of improvements located on the trust lands proposed for exchange, as determined by the commissioner or a bill of sale or a waiver of payment signed by the owner of the improvements. The deposit shall be required even if such improvements are located on trust lands subject to a state surface lease on the date of exchange;

(c) deposit with the commissioner and/or evidence of payment to third parties involved (such as appraisers and surveyors) of any costs or estimated costs of the exchange over and above the amount previously deposited;

(d) any further or additional description or disclosure regarding any cultural properties located on the lands proposed to be exchanged, including the results of any archaeological survey or other survey or report required by the commissioner;

(e) one or more environmental studies, assessments or reports regarding the lands to be exchanged dealing with hazardous materials, wildlife habitat, threatened or endangered species or other environmental issues, conforming to requirements set by the commissioner;

(f) further or supplemental title documents acceptable to the commissioner evidencing the exchange applicant's marketable fee simple title to the non-trust lands proposed for exchange and such other documents as the commissioner may deem necessary to evidence any outstanding interests in or servitudes upon such property and the absence of claims, mortgages, or other liens, charges or liabilities against such property, including the title abstract, title insurance policy commitments, and conditions upon or changes to title insurance policy commitments such as the deletion of certain coverage exclusions;

(g) any documentation regarding minerals located on or under the lands proposed to be exchanged reasonably required by the commissioner;

(h) any additional or supplemental appraisals of the lands to be exchanged and/or of any improvements located thereon;

(i) any additional or supplemental surveys or corrections to surveys, or changes or corrections to the descriptions of the lands proposed to be exchanged; and

(j) any other documentation

requested by the commissioner.

(6) Following the exchange applicant's submission of its exchange proposal and deposit, as well as any supplemental information, documentation, evidence of payment, or deposit required by the commissioner, the commissioner shall review the exchange proposal and any supplemental material and make a determination whether or not the proposed exchange appears to offer sufficient benefit to the trust to warrant proceeding further with the exchange process. If the commissioner determines that it does not, he or she shall so inform the exchange applicant and the exchange procedure will terminate. If the commissioner determines that the proposed exchange appears to offer sufficient benefit to the trust and an advertisement soliciting proposals for the exchange has not already been published, the commissioner shall cause an advertisement soliciting further exchange proposals to be published in accordance with Subsection D of 19.2.21.9 NMAC, below.

C. Exchange procedure initiated by the commissioner. The commissioner may make his own preliminary determination that the interest of the trust would be best served by exchanging certain trust lands for non-trust lands. In that case, the commissioner may initiate an exchange process by publishing a request for exchange proposals in accordance with Subsection D of 19.2.21.9 NMAC, below.

D. Except as provided in Subsection E of 19.2.21.9 NMAC below, a request for exchange proposal shall be published once each week for not less than ten successive weeks in a newspaper of general circulation published regularly at Santa Fe, New Mexico, and also in the newspaper of general circulation published regularly nearest the location of the trust lands offered for exchange. The request for exchange proposal may also be posted during the publication period on the state land office website. The published request for exchange proposals shall include a description or a statement of the location of the trust lands offered for exchange and their total acreage; a description of leases, rights of way, easements or other uses, if any, to which the trust lands are subject as indicated by the records of the state land office; a general description of reservations to be included in the conveying instrument; the types of improvements located on the trust lands to be exchanged; the estimated publication and other costs to be paid by the exchange party; the address and telephone number from which any interested person may obtain exchange proposal forms prescribed by the commissioner, the form of conveyance instrument to be used in the exchange, the estimated value of improve-

ments on the land offered for exchange, and other information regarding the exchange that the commissioner deems pertinent; the location where exchange proposals must be submitted; the closing date for the submission of such proposals; and any other information the commissioner deems pertinent, which may include information regarding the types and locations of non-trust lands the commissioner is interested in acquiring. The commissioner may, in his discretion, include in the publication the minimum value of non-trust lands that will be considered for exchange.

E. In each case of a proposed exchange with another governmental entity, the commissioner shall determine what notice is required.

F. An exchange proposal submitted in response to a published request for exchange proposals shall conform to the requirements set forth in Paragraph (4) of Subsection B of 19.2.21.9 NMAC above, and the commissioner's authority to require a further deposit and/or supplemental information or documentation as set forth in Paragraph (5) of Subsection B of 19.2.21.9 NMAC above shall also apply to any exchange proposal submitted in response to a published request for exchange proposals. In the event that a published request for exchange proposals follows submission of a proposal by an applicant, the commissioner also may, during or after the publication period, require from the original applicant supplemental information or documentation as set forth in Paragraph (5) of Subsection B of 19.2.21.9 NMAC above whether or not he has previously made such a request of the original applicant.

G. The form of instrument to be used in an exchange to convey the trust lands involved shall be available for inspection by prospective exchange applicants.

H. Non-trust lands proposed for exchange shall be open to the commissioner for inspection and appraisal. Trust lands for which the commissioner has published a request for exchange proposals shall be open to prospective exchange applicants for inspection and appraisal by obtaining permission from the state land office. [19.2.21.9 NMAC - Rp, 19.2.21.9 NMAC, 06/15/04]

19.2.21.10 SELECTION ; REJECTION:

A. Within a reasonable time after the published closing date for submission of exchange proposals including any period of time required for requesting, receiving and analyzing any supplemental information or documentation requested by the commissioner, the commissioner may either reject all exchange

proposals submitted, or may select the proposal or proposals he determines are the highest and best, that is, the proposal or proposals that he believes will be most beneficial to the trust in accordance with the standards set forth in Subsections A and C of 19.2.21.8 NMAC above, and reject the rest. The commissioner shall notify each exchange applicant whose exchange proposal is rejected. If the commissioner selects more than one proposal as highest and best, he shall conduct further review of the proposals so selected, may request supplemental information from the respective applicants, and may conduct a supplemental competitive process among those applicants before making a final selection.

B. The commissioner's rejection of all exchange proposals shall terminate the exchange.

[19.2.21.10 NMAC - Rp, 19.2.21.10 NMAC, 06/15/04]

19.2.21.11 WITHDRAWAL: At any time prior to entering into an exchange agreement as set forth in 19.2.21.12 NMAC, below, or as provided in such an exchange agreement, the commissioner or any exchange applicant or exchange party may withdraw from the exchange by providing the other with five working days' written notice of intent to withdraw.

[19.2.21.11 NMAC - Rp, 19.2.21.11 NMAC, 06/15/04]

19.2.21.12 EXCHANGE AGREEMENT: If the commissioner selects a particular exchange proposal, as supplemented by any additional information or documentation that he has requested, as most beneficial to the trust and the applicant is in compliance with this rule and any other applicable regulations or statutes, the commissioner and the applicant shall enter into a written exchange agreement before the exchange is consummated. The exchange agreement may include, but shall not necessarily be limited to, legal descriptions of the trust land and non-trust land to be exchanged; a statement of the comparative value of the tracts to be exchanged; a closing date; a description of the conveyance documents to be exchanged (which may be accomplished by attaching forms of such documents as exhibits); a listing of all documents to be exchanged at the closing, including conveyance documents and any title insurance policy documents; a statement that the exchange party has complied with applicable legal obligations and requirements with respect to the non-trust lands such as the payment of property taxes, and compliance with environmental, zoning, cultural properties or other applicable laws, as may be appropriate; any applicable escrow provisions; a statement as to when

the parties shall be entitled to take possession of the lands being exchanged; a statement regarding notification of the exchange to the beneficiary institutions; a statement regarding the payment of exchange costs and improvement value; a provision for termination of the exchange agreement; standard contractual provisions (such as amendments, entire agreement, governing law); and any other terms or conditions the parties find appropriate.

[19.2.21.12 NMAC - N, 06/15/04]

[19.2.21.12 NMAC is a new section added and replaces 19.2.21.12 NMAC EXCHANGE REPORT. The Section headed EXCHANGE REPORT is now titled NOTICE TO BENEFICIARY INSTITUTIONS and becomes 19.2.21.13 NMAC below]

19.2.21.13 NOTICE TO BENEFICIARY INSTITUTIONS:

A. Upon causing a request for exchange proposals to be published as required by Subsection D of 19.2.21.9 NMAC above, the commissioner in his discretion may submit to the beneficiaries institutions for whose benefit the trust lands proposed to be exchanged are held in trust a copy of the request for exchange proposals and any statement of the commissioner's reasons for believing that such an exchange will be beneficial to the trust and to the beneficiary institutions. Upon entering into an exchange agreement as required by 19.2.21.12 NMAC above, the commissioner in his discretion may submit to the beneficiary institutions a copy of the exchange agreement and any explanatory materials he finds appropriate.

B. Upon consummation of an exchange, the commissioner shall submit a written report to all beneficiary institutions involved setting forth a description of the trust lands and the non-trust lands involved, their appraised values, his reason for believing that the exchange will benefit the trust, and any other information he deems desirable.

[19.2.21.13 NMAC - Rp, 19.2.21.12 NMAC, 06/15/04]

19.2.21.14 SIMULTANEOUS EXCHANGE: The exchange of trust lands for non-trust lands shall be consummated in accordance with the exchange agreement by a simultaneous exchange of conveyancing documents between the commissioner and the exchange party or parties unless the exchange is part of a series of exchanges covered by a running exchange account agreement as provided in Subsection F of 19.2.21.8 NMAC.

[19.2.21.14 NMAC - Rp, 19.2.21.13 NMAC, 06/15/04]

19.2.21.15 RECORDING: The commissioner will cause the conveyancing documents to be recorded and filed with the records division of the state land office. The exchange party will cause the conveyancing documents to be recorded with the appropriate county clerks and will thereafter deliver to the commissioner copies thereof showing such recordation.
[19.2.21.15 NMAC - N, 06/15/04]

HISTORY of 19.2.21 NMAC: Pre-NMAC History:

Material in this part was derived from that previously filed with the state records center and archives:

SLO Rule 21, Relating To Land Exchanges, filed 08/5/92.

History of Repealed Material:

SLO Rule 21, Relating To Land Exchanges, 05/31/2000.

19.2.21 NMAC, Land Exchanges repealed effective 06/15/04 and replaced with 19.2.21 NMAC, Land Exchanges effective 06/15/04.

Other History:

19.2.10 NMAC, Land Exchanges, Renumbered to 19.2.21 NMAC, 02/28/02.

NEW MEXICO COMMISSION OF PUBLIC RECORDS

May 28, 2004

Leo R. Lucero, Agency Analysis Bureau Chief
NM Commission of Public Records
1205 Camino Carlos Rey
Santa Fe, New Mexico 87505

Mr. Lucero:

You recently requested to publish a synopsis in lieu of publishing the full content of the following listed rules:

- * 1.18.378 NMAC ERRDS, State Personnel Office
- * 1.18.419 NMAC ERRDS, Economic Development Department; and
- * 1.18.665 NMAC ERRDS, Department of Health
- * 1.19.11 NMAC LGRRDS, Soil And Water Conservation Districts and Watershed Districts

A review of these rules shows that their most impact is limited to the individual agencies to which they pertain, and they are "unduly cumbersome, expensive or otherwise inexpedient" to publish. Therefore, your request to publish a synopsis for each is approved.

Sincerely,

Sandra Jaramillo
State Records Administrator

SJ/lrl

NEW MEXICO COMMISSION OF PUBLIC RECORDS

SYNOPSIS

1.19.11 NMAC LGRRDS, Soil and Water Conservation Districts

1. Subject matter: 1.19.11 NMAC, LGRRDS, Soil and Water Conservation Districts. This is a new rule. This records retention and disposition schedule is a timetable for the management of specific records series of the Soil and Water Conservation Districts. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the court as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Records Center and Archives (New Mexico Commission of Public Records) and approved by the State Records Administrator, the New Mexico Commission of Public Records, and the New Mexico Water Conservation Commission. The rule was also reviewed by the New Mexico Department of Agriculture.

2. Persons affected: The persons affected are the record producing and record keeping personnel of the Soil and Water Conservation Districts. Persons and entities normally subject to the rules and regulations of the Soil and Water Conservation Districts may also be directly or indirectly affected by this rule.

3. Interests of persons affected: Interests include the records produced and maintained by the Soil and Water Conservation Districts.

4. Geographical applicability: Geographical applicability is limited to areas within the State of New Mexico covered by the Soil and Water Conservation Districts. Any person or entity outside the covered geographical area that conducts business with or through the Soil and Water

Conservation Districts may also be affected by this rule.

5. Commercially published materials incorporated: The New Mexico Statutes Annotated 1978 were used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

6. Telephone number and address of issuing agency: New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505. Telephone number: (505) 476-7900.

7. Effective date of this rule: June 28, 2004.

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.19.11 NMAC LGRRDS, Soil and Water Conservation Districts.

Roberta D. Joe Date
Assistant Attorney General

**NEW MEXICO
COMMISSION OF
PUBLIC RECORDS**

This is an amendment to Section 1.18.333.103 NMAC, effective June 28, 2004.

1.18.333.103 [RECIPROCAL AGREEMENT WITH OTHER STATES OR] COOPERATIVE AGREEMENTS WITH TRIBES FILES:

A. Program: tax policy and information [secretary's office]

B. Maintenance system: chronological by year, then by date of agreement

C. Description: ~~record of agreement to exchange confidential tax information with other states or Indian nations. Files may contain agreements with the authorized representatives of other states or of Indian nations, tribes or pueblos to exchange confidential information, correspondence, etc.] record of agreement to exchange confidential tax information with Indian nations with lands in this state. Files may contain agreements with the authorized representatives of Indian nations, tribes or pueblos to exchange confidential information, correspondence, etc.~~

D. Retention: ~~until agreements are superseded or modified] six years after termination of agreement~~

[1.18.333.103 NMAC - Rp, 1.18.333.103 NMAC, 1/5/2004; A, 6/28/2004]

**NEW MEXICO
COMMISSION OF
PUBLIC RECORDS**

SYNOPSIS

1.18.378 NMAC ERRDS, State Personnel Office

1. Subject matter: 1.18.378 NMAC, Executive Records Retention and Disposition Schedule for the State Personnel Office. This rule is a modification to the existing ERRDS, 1.18.378 NMAC, filed December 5, 2003. Sections 1.18.378.3, 6, 8, and 9 are being updated to reflect the current format for those sections. Section 1.18.378.31, *Job Evaluation Committee Files*, is being amended to lengthen its retention period to six years from an initial three years because the records are in use for longer than three years. Sections 1.18.378.42 NMAC and 1.18.378.43 NMAC will be added. This records retention and disposition schedule is a timetable for the management of specific records series of the State Personnel Office. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the office as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Records Center and Archives (New Mexico Commission of Public Records) and approved by the State Records Administrator, the New Mexico Commission of Public Records and the State Personnel Office.

2. Persons affected: The persons affected are the record producing and record keeping personnel of the State Personnel Office. Persons and entities normally subject to the rules and regulations of the State Personnel Office may also be directly or indirectly affected by this rule.

3. Interests of persons affected: Interests include the records produced and maintained by the State Personnel Office.

4. Geographical applicability: Geographical applicability is limited to areas within the State of New Mexico cov-

ered by the State Personnel Office. Any person or entity outside the covered geographical area that conducts business with or through the State Personnel Office may also be affected by this rule.

5. Commercially published materials incorporated: The New Mexico Statutes Annotated 1978 were used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

6. Telephone number and address of issuing agency: New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505. Telephone number: (505) 476-7900.

7. Effective date of this rule: June 28, 2004.

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.378 NMAC ERRDS, State Personnel Office.

Roberta Joe Date
Assistant Attorney General

**NEW MEXICO
COMMISSION OF
PUBLIC RECORDS**

SYNOPSIS

1.18.419 NMAC ERRDS, Economic Development Department

1. Subject matter: 1.18.419 NMAC, Executive Records Retention and Disposition Schedule for the Economic Development Department. This rule is being amended 1.18.419 NMAC ERRDS, Economic Development Department. This records retention and disposition schedule is a timetable for the management of specific records series of the Economic Development Department. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the department as well as its final disposition. The retention and disposition requirements in this rule was developed by the Records Management Division of the State Records Center and Archives (New Mexico Commission of Public Records) and approved by the State

Records Administrator, the New Mexico Commission of Public Records and the Economic Development Department.

2. Persons affected: The persons affected are the record producing and record keeping personnel of the Economic Development Department. Persons and entities normally subject to the rules and regulations of the Economic Development Department may also be directly or indirectly affected by this rule.

3. Interest of persons affected: Interests include the records produced and maintained by the Economic Development Department.

4. Geographical applicability: Geographical applicability is limited to areas within the State of New Mexico covered by the Economic Development Department. Any person or entity outside the covered geographical area that conducts business with or through the Economic Development Department may also be affected by this rule.

5. Commercially published materials incorporated: The New Mexico Statutes Annotated 1978 were used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

6. Telephone number and address of issuing agency: New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, NM 87505. Telephone number: (505) 476-7900.

7. Effective date of this rule: June 28, 2004.

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.419 NMAC ERRDS, Economic Development Department.

Roberta D. Joe Date
Assistant Attorney General

**NEW MEXICO
COMMISSION OF
PUBLIC RECORDS**

SYNOPSIS

1.18.665 NMAC ERRDS, Department of Health

1. Subject matter: 1.18.665 NMAC.

Executive Records Retention and Disposition Schedule for the Department of Health. This rule is a modification to the existing ERRDS, 1.18.665 NMAC, filed June 21, 2002. Section 1.18.665.8, 226 will be modified to add in a new acronym. Section 1.18.665.226 will have retention and description modifications. Section 1.18.665.229 will be repealed. Sections 1.18.665.2356 through 1.18.665.2359 will be new sections add to the rule. The retention and disposition requirements on this schedule are based on the legal and use requirements of the records and on their administrative, legal, fiscal and archival values. This records retention and disposition schedule was developed by the State Records Center and Archives (New Mexico Commission of Public Records), and approved by the State Records Administrator, the Cabinet Secretary of the Department of Health, and legal counsel for the Department of Health.

2. Persons affected: The persons affected are the record producing and record keeping personnel of the Department of Health. Persons and entities normally subject to the rules and regulations of the Department of Health may also be directly or indirectly affected by this rule.

3. Interests of persons affected: Interests include the records produced and maintained by the Department of Health.

4. Geographical applicability: Geographical applicability is limited to areas within the State of New Mexico covered by the Department of Health. Any person or entity outside the covered geographical area that conducts business with or through the Department of Health may also be affected by this rule.

5. Commercially published materials incorporated: The New Mexico Statutes Annotated 1978 were used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

6. Telephone number and address of issuing agency: New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505. Telephone number: (505) 476-7900.

7. Effective date of this rule: June 28, 2004.

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of

1.18.665 NMAC ERRDS, Department of Health.

Roberta D. Joe Date
Assistant Attorney General

**NEW MEXICO PUBLIC
SCHOOL CAPITAL
OUTLAY COUNCIL**

**PUBLIC SCHOOL CAPITAL OUTLAY
COUNCIL
2019 GALISTEO SUITE B-1
SANTA FE, NEW MEXICO 87505**

**The Public School Capital Outlay
Council has repealed the following rules
effective June 15, 2004:**

NMAC NUMBER	TITLE
6.27.2 NMAC	APPLICATION AND AWARD PROCEDURES
6.27.3 NMAC	POST-GRANT PROCEDURES

**NEW MEXICO PUBLIC
SCHOOL CAPITAL
OUTLAY COUNCIL**

**TITLE 6 PRIMARY AND
SECONDARY EDUCATION
CHAPTER 27 PUBLIC SCHOOL
CAPITAL OUTLAY COUNCIL
PART 2 PUBLIC SCHOOL
FACILITIES AUTHORITY**

6.27.2.1 ISSUING AGENCY: Public School Capital Outlay Council [6.27.2.1 NMAC - N, 06/15/04]

6.27.2.2 SCOPE: Public School Capital Outlay Council and Public Schools Facilities Authority [6.27.2.2 NMAC - N, 06/15/04]

6.27.2.3 STATUTORY AUTHORITY: The Public School Capital Outlay Act, Section 22-24-5 NMSA 1978. [6.27.2.3 NMAC - N, 06/15/04]

6.27.2.4 DURATION: Permanent [6.27.2.4 NMAC - N, 06/15/04]

6.27.2.5 EFFECTIVE DATE: June 15, 2004, unless a later date is cited at the end of a section. [6.27.2.5 NMAC - N, 06/15/04]

6.27.2.6 OBJECTIVE: The objective of the rule is to establish the general provisions for rules filed in this chapter. [6.27.2.6 NMAC - N, 06/15/04]

6.27.2.7 DEFINITIONS: [Reserved]

6.27.2.8 GENERAL PROVISIONS: DIRECTOR

A. The council shall select the director of the authority, who shall serve at the pleasure of the council.

(1) The director may hire no more than two deputy directors with the approval of the council. The deputy directors shall serve at the pleasure of the director.

(2) The director shall hire, fire and otherwise take personnel actions for personnel as may be employed by the authority.

B. The director shall present an organizational chart and budget for the operation of the authority and the execution of the duties of the authority to the council for its review and approval at such times as directed by the council.

C. The director shall present an annual calendar and work schedule to the council at such time as directed by the council.

D. The director shall provide reports and other information as requested by the council.

[6.27.2.8 NMAC - N, 06/15/04]

6.27.2.9 AUTHORITY: DUTIES

A. The authority shall perform duties as provided by law and as directed by the council.

B. In addition to such duties as set forth in law and rule, the authority shall:

(1) consult with the secretary of public education or the secretary's designee prior to recommending building standards for public school facilities to the council, and

(2) maintain the database that reflects the condition of each public school facility.

[6.27.2.9 NMAC - N, 06/15/04]

6.27.2.10 PRE-IMPLEMENTATION PHASE FOR PROJECTS FUNDED WHOLLY OR IN PART BY THE COUNCIL. The authority shall:

A. assist districts in developing scope of project, budget, timeline for completion and best procurement method based on final budget;

B. work with the school district to determine:

(1) the feasibility of using design, build and finance arrangements for the pub-

lic school capital outlay project;

(2) the potential use of more durable construction materials that may reduce long-term operating costs; and

(3) any other financing or construction concept that may maximize the dollar effect of the state grant assistance, including competitive proposal contracts entered into pursuant to rules adopted through a public rulemaking process in accordance with the Procurement Code.

[6.27.2.10 NMAC - N, 06/15/04]

6.27.2.11 OVERSIGHT AND IMPLEMENTATION OF PROJECTS FUNDED WHOLLY OR IN PART BY THE COUNCIL

A. The authority shall develop an agreement for each project defining the respective roles and responsibilities of the authority and the district.

B. The authority shall:

(1) oversee the procurement process;

(2) require the use of standardized construction documents and the use of a standardized process for change orders;

(3) review plans and specifications for compliance with the statewide adequacy standards and all applicable codes and regulations;

(4) coordinate all required reviews and approvals;

(5) require standardized reporting to monitor progress of projects;

(6) conduct periodic on-site inspections and inspection of documents to ensure compliance with project specifications;

(7) ensure timely payments for completed work; and

(8) maintain records for completed projects, including warranties.

C. The authority shall report to the council concerning the progress of projects.

(1) The authority shall identify and make recommendations to the council concerning any substantial noncompliance with any reporting requirement or condition.

(2) The authority shall identify and make recommendations to the council regarding any misfeasance or malfeasance in the implementation of the project warranting the withholding of all or part of the grant assistance for the project.

[6.27.2.11 NMAC - N, 06/15/04]

6.27.2.12 OTHER SCHOOL CONSTRUCTION PROJECTS: REQUIRED APPROVALS UNDER SECTION 22-20-1 NMSA 1978

A. Each local school board must secure the approval of the director or the director's designee prior to the construc-

tion or letting of contracts for construction of any school building or related school structure or before reopening an existing structure that was formerly used as a school building but that has not been used for that purpose during the previous year. As used in this subsection, "construction" means any project for which the construction industries division of the regulation and licensing department requires permitting. A "related school structure" means a project involving any structure or part of a structure under the control of the local school district for which the construction industries division requires permitting.

B. A written request for approval meeting the requirements of Subsection A of Section 22-20-1 NMSA 1978 must be submitted to the director on a form prescribed by the director.

C. The director or the director's designee shall approve the request if the director reasonably determines that the conditions set forth in Subsection B of Section 22-20-1 NMSA 1978 have been met, including certification by the secretary that the construction shall support the educational program of the school district.

D. Within thirty (30) days of receipt of the request for approval, the director or the director's designee shall notify the local school board and the department of the approval or disapproval of the request.

E. No local school board may construct, or cause the construction of, any public school building within four hundred feet of any main artery of travel without the prior written approval of the department or its designee.

F. The authority will coordinate all required reviews and approvals.

[6.27.2.12 NMAC - N, 06/15/04]

HISTORY OF 6.27.2 NMAC: [RESERVED]

Public School Capital Outlay Council
[6.27.3.1 NMAC - Rp, 6.27.2.1 NMAC, 06/15/04]

6.27.3.2 SCOPE: Public school capital outlay council, public school facilities authority, and public school districts
[6.27.3.2 NMAC - Rp, 6.27.2.2 NMAC, 06/15/04]

6.27.3.3 S T A T U T O R Y AUTHORITY: The Public School Capital Outlay Act, Section 22-24-5 NMSA 1978.
[6.27.3.3 NMAC - Rp, 6.27.2.3 NMAC, 06/15/04]

6.27.3.4 D U R A T I O N : Permanent
[6.27.3.4 NMAC - Rp, 6.27.2.4 NMAC, 06/15/04]

6.27.3.5 EFFECTIVE DATE: June 15, 2004, unless a later date is cited at the end of a section.
[6.27.3.5 NMAC - Rp, 6.27.2.5 NMAC, 06/15/04]

6.27.3.6 OBJECTIVE: The objective of the rule is to establish application and grant assistance procedures pursuant to the Public School Capital Outlay Act.
[6.27.3.6 NMAC - Rp, 6.27.2.6 NMAC, 06/15/04]

6.27.3.7 D E F I N I T I O N S : [Reserved]
[6.27.3.7 NMAC - Rp, 6.27.2.7 NMAC, 06/15/04]

6.27.3.8 GENERAL PROCEDURES:

A. The authority shall present a proposed calendar and proposed application to the council prior to the beginning of the allocation cycle for a given year.

B. The council shall determine the estimated available funding for the allocation cycle for a given year.

(1) For funding cycles established for fiscal years FY 2005, FY 2006, and FY 2007, the council shall review the estimated allocations necessary for projects that were partially funded by the council in September 2003 but are not completed. The estimated allocations identified for these projects shall be deemed priority allocations by the council.

(2) The authority, at the direction of the council, shall advise school districts of the funding available for each allocation cycle and the resultant potential applicant pool. In making the determination, the council shall consider prior awards for phased projects, contingencies, and phasing requirements as they pertain to current rank-

ings and estimated funding.
C. Condition index ranking:

(1) In accordance with the calendar established by the council for the application cycle for FY 2006, the authority shall report to the council regarding the methodology used to determine the condition index ranking, including any recommendations for affirming or refining the methodology.

(2) The authority, in cooperation with school districts, shall regularly review and update the data used to determine the condition index ranking. In accordance with the timelines established by the council, the authority shall transmit the application, the calendar, the condition index rankings, and such other information as the council deems relevant to all school districts.

(3) A school district aggrieved by a determination of the authority regarding the condition index ranking of a public school under the authority of the district may appeal the matter to the council in accordance with the procedures established in 6.27.1.10 NMAC. The appeal must specify the data that the school district believes to be erroneous.

D. The authority shall provide assistance to school districts with respect to the application process and requirements, and preparation of the application, if necessary.

E. The authority shall provide on-going analyses and technical assistance to school districts with regard to:

- (1) adequacy standards;
- (2) master plans;
- (3) maintenance plans and implementation of such plans;
- (4) assessments used to determine whether a school building is renovated or replaced;
- (5) space utilization; and
- (6) phasing, financing and cost benefit analyses.

F. The authority shall establish procedures to ensure consultation with the secretary in the event of any potential or perceived conflict between a proposed action of the authority and an educational program.

[6.27.3.8 NMAC - N, 06/15/04]

6.27.3.9 STATE / LOCAL MATCH DETERMINATION. The department shall notify the council and each school district of the state/local match for each school district for every allocation cycle in accordance with the calendar established by the council.

A. The match shall be calculated annually in accordance with the requirements of Paragraph (5) of Subsection B of Section 22-24-5 NMSA

NEW MEXICO PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL

**TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 27 PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL
PART 3 APPLICATION AND GRANT ASSISTANCE PROCEDURES**

6.27.3.1 ISSUING AGENCY:

1978. In calculating the match:

(1) the final prior year net taxable value for the school district means the net taxable value for the calendar year immediately preceding the calendar year in which the allocation is made;

(2) the MEM for the school district is the total full-time-equivalent enrollment of students attending public schools, including charter schools, in a school district in the final funded MEM for the prior school year as reported by the department; the state MEM is the total final funded MEM for the prior school year as reported by the department.

B. The notification shall include the net taxable value, the sum of the property tax mill levies, and the MEM used to determine the state/local match.

C. If a school district believes that either the prior year net taxable value for the school district or the MEM used to calculate the state/local match is incorrect, the school district shall notify the department within thirty (30) days of receiving the notification and shall provide documentation as to the data the school district believes to be correct. The department shall review the information provided by the school district and notify the school district and the council of its determination within thirty (30) days of receiving the school district's objections.

[6.27.3.9 NMAC - N, 06/15/04]

6.27.3.10 SPECIAL APPROPRIATION REJECTION: OFFSET.

A. The school district must determine whether to accept or reject any legislative appropriation made directly to the school district after January 1, 2003 for non-operating purposes and excluding educational technology and reauthorizations of appropriations previously made to the school district. This includes determinations with regard to direct appropriations for charter schools within the school district.

(1) The school district must notify the department of finance and administration and the public education department in writing that it is rejecting an appropriation prior to July 15 of the fiscal year following the appropriation.

(2) The rejection of the direct appropriation must be supported by the affirmative action of the local school board.

(3) Submission of the completed questionnaire for a project funded by a direct legislative appropriation and the corresponding sale of the bonds will be deemed to constitute the school district's acceptance of the project.

B. Any direct appropriation not otherwise excepted from this requirement and not rejected by the school district shall result in the application of the

offset as calculated pursuant to Paragraph (6) of Subsection B of Section 22-24-5 NMSA 1978.

[6.27.3.10 NMAC - N, 06/15/04]

6.27.3.11 PREVENTIVE MAINTENANCE PLANS

A. The school district must have a current preventive maintenance plan approved by the council pursuant to Section 22-24-5.3 NMSA 1978.

B. The preventive maintenance plan for each public school building under the authority of the school district must:

(1) address the regularly scheduled repair and maintenance needed to keep a building component operating at peak efficiency and to extend its useful life; and

(2) identify the budget, personnel, and staff support dedicated to implementation of the plans, must identify necessary licenses or certifications and associated training requirements and must provide for school district's monitoring and evaluation of the implementation of the plan.

C. Preventive maintenance includes scheduled activities intended to prevent breakdowns and premature failures, including periodic inspections, lubrications, calibration and replacement of expendable components of equipment and addressing each of the following systems and functions:

(1) school site: adequate water source and appropriate means of effluent disposal;

(2) access areas and parking: maintained surface areas that are stable, firm and slip resistant;

(3) drainage;

(4) security, including fences, walls and site lighting;

(5) area, space and fixtures used for site recreation and outdoor physical education;

(6) electrical systems;

(7) plumbing and septic systems;

(8) heating, ventilations and air conditioning systems;

(9) windows and doors;

(10) exterior finishes; and

(11) interior finishes.

[6.27.2.11 NMAC - N, 06/15/04]

6.27.3.12 APPLICATIONS: MINIMUM REQUIREMENTS

A. The application must verify that the school district has submitted a five-year facilities plan. The facilities plan must include:

(1) enrollment projections, which are updated at the beginning of each fiscal year and reflect the final funded membership for the prior school year;

(2) projections for facilities need-

ed to maintain a full-day kindergarten program;

(3) the school district's mission statement, facility goals and objectives, and the steps taken by the school district to address the priority of needs. The goals and objectives should address how the master plan supports the educational programs and needs of the district;

(4) description of community involvement in the development of the master plan;

(5) if the application or master plan establish ranked priorities for public school capital outlay projects within the district that do not conform with the condition index rankings of public school buildings within the school district, the school district must provide a detailed explanation as to the rationale for the difference;

(6) a map of the school district addressing, at a minimum, the following factors: location of all current sites, land owned by the school district, location of any planned expansion (indicating whether the site is owned by the school district), school district growth areas and other school district facilities; and

(7) addressing of the facilities needs of charter schools located within the school district.

B. The application must assure that the school district is willing and able to pay any portion of the public school capital outlay project that is not funded with grant assistance from the fund and must provide information on the anticipated source of the local share, the timelines for ensuring the local share and any known contingencies in ensuring the local share.

C. The application must address the needs of any charter schools located in the school district or provide documentation that the facilities of such charter schools meet the statewide adequacy standards not specifically waived by the council.

D. The application must include a preventive maintenance plan meeting the requirements of 6.27.3.11 NMAC.

E. The application must assure that the school district agrees to comply with any reporting requirements or conditions imposed by the council pursuant to Section 22-24-5.1 NMSA 1978.

F. If the proposed project exceeds the statewide adequacy standards, the application must provide a detailed explanation of the variance and a cost analysis of the cost of meeting the statewide adequacy standards and the excess costs associated with exceeding the statewide adequacy standards.

G. If the application is for a charter school, the district must include

documentation sufficient to ensure that the provisions of Article IX, Section 14 of the Constitution of New Mexico (the "anti-donation clause") are not violated. [6.27.3.12 NMAC - N, 06/15/04]

6.27.3.13 GRANT ASSISTANCE DETERMINATIONS

A. The council shall consider all applications meeting the requirements of this rule and, after public hearing and consideration of recommendations by the authority and by any subcommittee that may be appointed by the chair for this purpose, approve those applications selected for grant assistance during the allocation cycle.

B. The council shall prioritize all applications using the statewide adequacy standards. The amount of outstanding deviation from the standards as shown in the New Mexico condition index rankings shall be used by the council in evaluating and prioritizing public school capital outlay projects; provided however, that the council may fashion such solutions to the needs established by the rankings as appropriate and also, in making its awards based on the priorities, the council may consider:

- (1) the timeliness of a district's ability to provide its match;
- (2) phasing possibilities or the ability to totally fund and complete a project;
- (3) the need for additional planning time;
- (4) the inability of a district to be able to effectuate multiple awards in terms of actual construction;
- (5) the impact on its educational program; and
- (6) such other factors as the council may deem relevant or appropriate

C. Notwithstanding the provisions of subsection B of this section:

(1) For fiscal years FY 2005, FY 2006, and FY 2007, the council shall review the estimated allocations for projects that were partially funded by the council in September 2003 but are not completed. The estimated allocations identified for these projects shall be given priority for grant assistance by the council in a three-year phased process, subject to completion of an application for continuation projects developed by the authority and approved by the council.

(2) In an emergency in which the council determines that the health or safety of students or school personnel is at immediate risk or in which the council determines there is a threat of significant property damage, the council may award grant assistance for a project using criteria other than the statewide adequacy standards.

D. The council shall make its allocations for grant assistance in a manner that the council determines will maximize the utilization of the available funding for any given allocation cycle. This determination may include allocations for grant assistance for one or more phases of a project upon the recommendation of the authority and any subcommittee of the council appointed by the chair for this purpose.

E. An application for grant assistance shall not be approved unless the council makes a determination that:

(1) the public school capital outlay project is needed and is included in the school district's top priorities;

(2) the school district has used its resources in a prudent manner as demonstrated by the school district's adherence to the priorities established in its master plan, its implementation of a preventive maintenance plan and such other information as the council finds relevant;

(3) the school district has provided insurance for buildings of the local school district in accordance with the provisions of Section 13-5-3 NMSA 1978;

(4) the school district has submitted a five-year facilities plan that meets the requirements of Subsection A of Section 6.27.3.11 of this rule;

(5) the school district is willing and able to pay any portion of the total cost of the public school capital outlay project not funded with grant assistance from the fund;

(6) the school district has addressed the capital needs of any charter schools located in the district by including the needs in the application or demonstrating that the facilities of the charter schools meet the statewide adequacy standards; and

(7) the school district has agreed in writing to comply with any reporting requirements or conditions established by the council pursuant to Section 22-24-5.1 NMSA 1978. The school district must acknowledge that the council may direct that the authority manage and provide direct administration of the project, either as a condition of approval of the project or upon a finding by the council that the project is repeatedly in substantial noncompliance with any reporting requirement or condition.

F. Upon recommendation of the authority, the council shall determine whether direct or indirect project management by the authority shall apply to the project. In making its recommendation, the authority shall consider:

(1) the district's preference and financial capabilities, including a determination by the council authorizing direct payment to the contractor;

(2) the district's capacity, includ-

ing training and certification in procurement and contract requirements; and

(3) the authority's staffing capacity.

G. Approval of a project by the council may include such necessary and reasonable conditions or contingencies imposed by the council to ensure that the project meets the requirements of law and rule and is effectively and prudently administered and managed.

[6.27.3.13 NMAC - N, 06/15/04]

6.27.3.14 CALCULATION OF GRANT ASSISTANCE

A. The amount of an award for grant assistance for a project shall be determined as follows:

(1) Total project cost means the total amount necessary to complete the public school capital outlay project less:

(a) any insurance reimbursement received by the school district for the project; and

(b) any amount attributable to costs associated with aspects of a project that exceed the statewide adequacy standards.

(2) The final state share amount of the total project cost is determined by:

(a) applying the ratio calculated pursuant to Subsection A of 6.27.3.9 NMAC in accordance with the requirements of Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978 to the total project cost to produce the state share amount; and

(b) subtracting from the state share amount the amount calculated pursuant to Paragraph (6) of Subsection B of Section 22-24-5 NMSA 1978.

B. Notwithstanding the requirements of Subsection A of this section:

(1) if the council determines that a district has used all of its local resources and that the district is not expected to have any available local resources in the foreseeable future, the council may fund up to the full amount of the total project cost; and

(2) the offsets calculated pursuant to Paragraph (6) of Subsection B of Section 22-24-5 NMSA 1978 do not apply to the following projects:

(a) appropriations to school districts for facilities for full-day kindergarten programs through the 2004 Capital Projects General Obligation Bond Act; or

(b) projects partially funded by the council in September 2003 but that are not completed, subject to the district's maintaining continued local support; or

(c) continuation projects funded by appropriations to subject school districts in Section 150 of Laws 2004, Chapter 126.

[6.27.3.14 NMAC - N, 06/15/04]

6.27.3.15 PORTABLE CLASS-ROOMS

A. The authority shall develop applications for loan, disposition, transfer or return of state-owned portable classroom buildings. The application for loan of portable classrooms shall address, at a minimum:

(1) the need for loan of portable classroom(s), including explanation of why needs of district cannot be met using existing facilities;

(2) description of the proposed use of portable classrooms;

(3) the anticipated duration of the loan; and

(4) the ability of the district to maintain and provide insurance of the portable classroom(s) while in the custody of the district.

B. The application for return of portable classrooms shall address, at a minimum:

(1) the reason(s) the district no longer needs the portable classroom(s);

(2) the manner in which the district is addressing the need(s) that occasioned the request for portable classrooms;

(3) the effective date of the proposed return; and

(4) a detailed description of the current condition of the portable classroom(s).

C. The district shall submit the application, including any application by a charter school for loan of a portable classroom, to the authority.

D. The authority shall forward the application to the council, together with a recommendation to the council for action on the application.

E. Upon a finding that the application submitted by the district demonstrates sufficient need for a loan of a portable classroom(s), the council shall approve the loan.

F. Upon approval of the loan by the council, the district and the authority shall enter into an agreement for the loan of the portable classrooms to the district.

G. The council may, in its discretion, authorize the authority to transfer to the district or otherwise permanently dispose of the portable classrooms with the prior approval of the state board of finance. [6.27.3.15 NMAC - Rp, 6.27.2.13 NMAC, 06/15/04]

6.27.3.16 ASSISTANCE FOR LEASE PAYMENTS

A. For fiscal years 2005 through 2009, the authority shall consult with the department and recommend a proposed calendar and proposed application to the council for assistance to school districts

for the purpose of making lease payments for classroom facilities, including charter schools.

B. Applications shall be made to the authority by the school district. Applications for lease assistance on behalf of charter schools shall be made through the school district; provided, however, that if the school district fails to make an application on behalf of a charter school, the charter school may submit its application directly to the authority. The application must contain all supporting documentation, including:

(1) a copy of the lease;

(2) the annualized cost of the lease for the fiscal year for which the school seeks assistance; and

(3) the MEM using leased classroom facilities, as determined by calculating the final funded prior year MEM using leased classroom space.

C. The authority shall determine, on a facility-by-facility basis, the cost per MEM by dividing the annualized cost of the lease by the MEM calculated in Paragraph (3) of Subsection B of this Section.

(1) If the cost per MEM for a facility is less than three hundred dollars (\$300), the assistance for the leased facility will be the actual annualized cost of the lease payments for the fiscal year for which assistance is granted.

(2) If the cost per MEM for a facility is greater than three hundred dollars (\$300), the assistance for the leased facility for the fiscal year for which assistance is granted is calculated at three hundred dollars (\$300) per MEM.

(3) If the total statewide assistance for any fiscal year as calculated pursuant to Paragraphs (1) and (2) of this Subsection produces a sum greater than four million dollars (\$4,000,000), the rate of three hundred dollars (\$300) per MEM shall be reduced proportionally and the assistance for each facility entitled to assistance shall be recalculated accordingly.

D. A charter school receiving assistance in an amount less than the actual annualized costs may be entitled to further assistance from grant funds that may be made available to the department under Subsection (b) of 20 United States Code Section 7221d. The federal share of the cost for any eligible fiscal share may not exceed the allowable federal share as follows:

(1) 90 percent of the cost, for the first fiscal year for which the program receives the federal assistance;

(2) 80 percent in the second such year;

(3) 60 percent in the third such year;

(4) 40 percent in the fourth such

year; and

(5) 20 percent in the fifth such year.

E. The authority shall consult with the department regarding applications for charter school lease assistance and provide recommendations to the council regarding the applications.

[6.27.3.16 NMAC - N, 06/15/04]

HISTORY OF 6.27.3 NMAC: HISTORY OF REPEALED MATERIAL:

6.27.2 NMAC, Application and Award Procedures, filed 11/1/2000 - Repealed effective 06/15/04.

NEW MEXICO PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL**TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 27 PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL
PART 4 POST-GRANT PROCEDURES**

6.27.4.1 ISSUING AGENCY: Public School Capital Outlay Council
[6.27.4.1 NMAC - Rp, 6.27.3.1 NMAC, 06/15/04]

6.27.4.2 SCOPE: Public school capital outlay council, public school facilities authority and public school districts
[6.27.4.2 NMAC - Rp, 6.27.3.2 NMAC, 06/15/04]

6.27.4.3 STATUTORY AUTHORITY: The Public School Capital Outlay Act, Section 22-24-5 NMSA 1978.
[6.27.4.3 NMAC - Rp, 6.27.3.3 NMAC, 06/15/04]

6.27.4.4 DURATION: Permanent
[6.27.4.4 NMAC - Rp, 6.27.3.4 NMAC, 06/15/04]

6.27.4.5 EFFECTIVE DATE: June 15, 2004, unless a later date is cited at the end of a section.
[6.27.4.5 NMAC - Rp, 6.27.3.5 NMAC, 06/15/04]

6.27.4.6 OBJECTIVE: The objective of the rule is to establish the post-award grant assistance procedures for grants made by the public school capital outlay council.
[6.27.4.6 NMAC - Rp, 6.27.3.6 NMAC, 06/15/04]

6.27.4.7 DEFINITIONS:

[RESERVED]

6.27.4.8 NOTIFICATION OF AWARD OF GRANT ASSISTANCE.

The authority will notify school districts of grant assistance by a certified letter, return receipt requested. The notification will include:

- A. the amount allocated for a specific project;
- B. any contingencies upon or conditions for the award established by the council; and
- C. the requirement that the district must provide written notice to the council or its designated staff of acceptance or rejection of the award. If the award is not accepted within thirty (30) days of receipt of the award letter, the council may consider the award rejected.

[6.27.4.8 NMAC - N, 06/15/04]

6.27.4.9 DRAW DOWN PROCEDURES [RESERVED]

HISTORY OF 6.27.4 NMAC: HISTORY OF REPEALED MATERIAL:

6.27.3 NMAC, Post Grant Procedures, filed 11/1/2000 - Repealed effective 06/15/04.

NEW MEXICO PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL

This is an amendment to Sections 7 and 9 of 6.27.1 NMAC (PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL - GENERAL PROVISIONS). A new Section 10 (APPEALS) is also added.

6.27.1.7 DEFINITIONS: As used in this chapter:

A. ~~"[Capital Outlay Unit" means that unit of the State Department of Public Education designated by the State Superintendent of Public Instruction as responsible for matters relating to public school capital outlay.]~~ "public school facilities authority ("authority")" means that entity created under the public school capital outlay council pursuant to Subsection A of Section 22-24-9 NMSA 1978;

B. "council" means the public school capital outlay council;

C. "department" means the ~~[State Department of Public Education.]~~ public education department;

D. "director" means the director of the public school facilities authority; and

E. "secretary" means the secretary of public education.

[6.27.1.7 NMAC - N, 11/14/2000; A, 06/15/04]

6.27.1.9 COUNCIL ORGANIZATION

A. A majority of the membership of the council constitutes a quorum.

B. The council will elect a ~~[Chairperson and Vice Chairperson]~~ chair and vice-chair. The ~~[Chairperson and Vice Chairperson]~~ chair and vice-chair will serve two-year terms. If an interim vacancy results in the office of ~~[Chairperson or Vice Chairperson]~~ chair or vice-chair, the council will select an officer or officers to serve in the interim.

C. The ~~[Chairperson]~~ chair will preside at council meetings and will have powers and duties including, but not limited to, the following:

- (1) to rule on matters of parliamentary procedure;
- (2) to execute documents approved by the council on behalf of the council;
- (3) to coordinate with council staff; and
- (4) to appoint subcommittees of the council as the ~~[Chairperson]~~ chair deems necessary and advisable to enable the council to conduct its business in an efficient manner. Subcommittees will be composed of fewer than a quorum of the council membership and will make recommendations to the council on issues and matters as directed by the chair. Subcommittees will act in an advisory capacity to the council. Subcommittees may not take any final or binding action.

D. The ~~[Vice Chairperson]~~ vice-chair will serve in the absence of the ~~[Chairperson]~~ chair.

E. If a council member is unable to attend a council meeting, ~~[he or she]~~ the member may provide a written designation to the ~~[Chairperson]~~ chair authorizing a specified individual to act on behalf of the council member for the meeting.

[6.27.1.9 NMAC - N, 11/14/2000; A, 06/15/04]

6.27.1.10 APPEALS

A. A school district aggrieved by a decision or recommendation of the authority that is not otherwise subject to review and final decision by the council may appeal the matter to the council.

B. The following procedures will govern appeals:

(1) An aggrieved district must file an appeal to the council within thirty (30) days of the authority's decision or recommendation.

(2) The notice of appeal, including a statement of the grounds upon which the school district is aggrieved, must be filed with the authority. The authority will forward the notice of appeal to the chair within two (2) working days of receipt of

the notice of appeal.

(3) The chairperson will inform the school district and the authority of the date, time and location of the hearing. No later than five (5) days prior to the hearing, the school district and the authority will exchange documents that will be relied upon in making presentations to the council. The authority will duplicate all documents and make copies available to council members.

(4) At the hearing, the school district, the authority and other interested parties may make informal presentations to the council in accordance with rules of order established by the chair.

C. Notwithstanding Subsections A and B of this Section, if a charter school requests that the school district appeal a decision or recommendation of the authority that is not otherwise subject to review and final decision by the council and which relates to a charter school facility and the school district does not file the appeal, the charter school may submit its appeal directly to the council. The charter school must submit its appeal no later than thirty (30) days after the expiration of the time period established in Paragraph (1) of Subsection B of this Section.

D. The council will decide the matter within ten (10) days after the hearing and notify the school district and the authority of its decision.

E. The filing of an appeal will suspend any decision or recommendation of the authority pending a decision by the council.

[6.27.1.10 NMAC - N, 06/15/04]

NEW MEXICO RACING COMMISSION

Explanatory paragraph: This is an amendment to Subsection B of 15.2.1.9 NMAC differentiating a ruling appeal from an appeal of a riding infraction, changing the amount charged for an appeal of a riding infraction from \$100 to \$300, adding an option to pay an appeal fee with a personal check and giving the commission the authority to refund an appeal fee, and to Subsection C of 15.2.1.9 NMAC changing the time deadline within which to file for a rehearing. Changes will be effective 6/15/2004.

15.2.1.9 DUE PROCESS AND DISCIPLINARY ACTION:

B. PROCEEDINGS BEFORE THE STEWARDS:

(9) Appeals

(a) A person who has been aggrieved by a ruling of the stewards may appeal to the commission. A person who fails to file an appeal by the deadline and in

the form required by this section waives the right to appeal the ruling.

(b) An appeal under this section must be filed not later than 20 days from the date of the ruling. The appeal must be filed at the main commission offices or with the stewards who issued the ruling. ~~The appeal must be accompanied by a fee in the amount of \$100 to defray the costs of the court reporter and transcripts required for the appeal. The fee must be in the form of a cashier's check or money order.~~

(i) A ruling appeal excluding riding infractions, must be accompanied by a fee in the amount of \$100. The fee must be in the form of a cashier's check, money order or personal check. The commission has the discretion to refund all or part of the fee.

(ii) A ruling appeal regarding a riding infraction must be accompanied by a fee in the amount of \$300. The fee must be in the form of a cashier's check, money order or personal check. The commission has the discretion to refund all or part of the fee.

(c) An appeal must be in writing on a form prescribed by the commission. The appeal must include the name, address, telephone number and signature of the person making the appeal; a statement of the basis for the appeal.

(d) On notification by the commission that an appeal has been filed, the stewards shall forward to the commission the record of the proceeding on which the appeal is based, and a statement of the reasons for their rulings.

(e) If a person against whom a fine has been assessed files an appeal of the ruling that assesses the fine, the person shall pay the fine in accordance with these rules. If the appeal is disposed of in favor of the appellant, the commission shall refund the amount of the fine.

C. PROCEEDINGS BY THE COMMISSION:

(18) Rehearing

(a) Within ~~60~~ **10** days following issuance of a final commission order, a party adversely affected by the order may file a petition for a rehearing stating the reasons for requesting a rehearing. The commission shall grant a rehearing only in cases of newly discovered material evidence, which the party could not reasonably have discovered at an earlier time, or other good cause.

NEW MEXICO RACING COMMISSION

This is an amendment to 15.2.5 NMAC, Section 14, effective, 06/15/2004.

15.2.5.14

PROTESTS, OBJEC-

TIONS AND INQUIRIES:

A. STEWARDS TO INQUIRE: The stewards shall take cognizance of foul riding and, upon their own motion or that of any racing official or person empowered by this chapter to object or complain, shall make diligent inquiry or investigation into such objection or complaint when properly received.

B. RACE OBJECTIONS:

(1) An objection to an incident alleged to have occurred during the running of a race shall be received only when lodged with the clerk of scales, the stewards or their designees, by the owner, the authorized agent of the owner, the trainer or the jockey of a horse engaged in the same race.

(2) An objection following the running of any race must be filed before the race is declared official, whether all or some riders are required to weigh in, or the use of a "fast official" procedure is permitted.

(3) The stewards shall make all findings of fact as to all matters occurring during an incident to the running of a race; shall determine all objections and inquiries, and shall determine the extent of disqualification, if any, of horses in the race. Such findings of fact and determination shall be final for pari mutuel payout purposes.

C. PRIOR OBJECTIONS:

(1) Objections to the participation of a horse entered in any race shall be made to the stewards in writing, signed by the objector, and filed not later than one hour prior to post time for the first race on the day which the questioned horse is entered. Any such objections shall set forth the specific reason or grounds for the objection in such detail so as to establish probable cause for the objection. The stewards upon their own motion may consider an objection until such time as the horse becomes a starter.

(2) An objection to a horse which is entered in a race may be made on, but not limited to, the following grounds or reasons:

(a) a misstatement, error or omission in the entry under which a horse is to run;

(b) the horse, which is entered to run, is not the horse it is represented to be at the time of entry, or the age was erroneously given;

(c) the horse is not qualified to enter under the conditions specified for the race, or the allowances are improperly claimed or not entitled the horse, or the weight to be carried is incorrect under the conditions of the race;

(d) the horse is owned in whole or in part, or leased or trained by a person ineligible to participate in racing or otherwise ineligible to own a race horse as provided in

these rules;

(e) the horse was entered without regard to a lien filed previously with the racing secretary.

(3) The stewards may scratch from the race any horse, which is the subject of an objection if they have reasonable cause to believe that the objection is valid.

D. PROTESTS:

(1) A protest against any horse, which has started in a race, shall be made to the stewards in writing, signed by the protestor, **and must be accompanied by a fee in the amount of \$300 in the form of a cashier's check, money order or personal check** within 48 hours of the race. **The commission has the discretion to refund all or part of the fee.** If the incident upon which the protest is based occurs within the last two days of the meeting, such protest may be filed with the commission within 48 hours exclusive of Saturdays, Sunday or official holidays. Any such protest shall set forth the specific reason or reasons for the protest in such detail as to establish probable cause for the protest.

(2) A protest may be made on any of the following grounds:

(a) any grounds for objection as set forth in this chapter;

(b) the order of finish as officially determined by the stewards was incorrect due to oversight or errors in the numbers of the horses, which started the race;

(c) a jockey, trainer, owner or lessor was ineligible to participate in racing as provided in this chapter;

(d) the weight carried by a horse was improper, by reason of fraud or willful misconduct;

(e) an unfair advantage was gained in violation of the rules;

(f) the disqualification of a horse(s).

(3) Notwithstanding any other provision in this article, the time limitation on the filing of protests shall not apply in any case in which fraud or willful misconduct is alleged provided that the stewards are satisfied that the allegations are bona fide and verifiable.

(4) No person shall file any objection or protest knowing the same to be inaccurate, false, untruthful or frivolous.

(5) The commission may fine any license holder an amount of up \$2,500 after considering protest, if based on the evidence they determine that the protest is frivolous, unreasonable or unnecessary.

(6) If a license holder who appealed fails to appear for any scheduled hearing without providing five days prior notice, the stewards or the commission may impose costs.

(7) The stewards may order any purse, award or prize for any race withheld

from distribution pending the determination of any protest. In the event any purse, award or prize has been distributed to an owner or for a horse which by reason of a protest or other reason is disqualified or determined to be not entitled to such purse, award or prize, the stewards or the commission may order such purse, award or prize returned and redistributed to the rightful owner or horse. Any person who fails to comply with an order to return any purse, award or prize erroneously distributed shall be subject to fines and suspension.

E. RACE REVIEW COMMITTEE:

(1) If a timely objection concerning a race is filed in accordance with the rules, the agency director may refer the objection to the race review committee who shall consist of three members appointed by the commission. The agency director shall issue and send, or deliver, to the objecting party a notice of hearing stating the date, time and place at which the race review committee will hear the appeal. The notice of hearing shall also be sent, or delivered, to any trainer or owner the placement of whose horse may be affected by the outcome of the appeal. The race review committee shall review the official tape or tapes of the race. Affected parties shall be given the opportunity to state their positions to the committee.

(2) The committee shall state its conclusions as to the merits of the objection and shall make a recommendation to the commission as to whether to uphold the stewards' determination, or to revise the order of finish. The commission shall then make the final determination as to the order of finish. The race review committee and the commission may only address the issues raised in the appeal filed.

[15.2.5.14 NMAC - Rp, 15 NMAC 2.5.14, 03/15/2001; A, 08/30/2001; A, 06/15/2004]

NEW MEXICO REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

GCB UFC 79-1 (aka CID GCB 80-8), Uniform Fire Code 1979 Edition (filed 05/01/1980) is repealed, effective 07/01/04.

14 NMAC 7.3, Housing and Construction - Building Codes General - 1997 Uniform Building Code filed October 30, 1998 and 14.7.2 NMAC, Housing and Construction - Building Codes General - 1997 New Mexico Building Code filed October 16, 2000 are repealed 07/01/04. Those applicable portions will be replaced by 14.7.3 NMAC, Housing and Construction -

Building Codes General - 2003 New Mexico Residential Building Code and 14.7.2 NMAC Housing and Construction - Building Codes General - 2003 New Mexico Commercial Building Code and effective 07/01/04.

14 NMAC 9.2 NMAC, Housing and Construction - Mechanical Codes, 1997 New Mexico Plumbing and Mechanical Code filed October 30, 1998 is repealed effective 07/01/04 and replaced as 14.9.2 NMAC Housing and Construction - Mechanical Codes, 2003 New Mexico Mechanical Codes effective 07/01/04.

14.1.1 NMAC, Housing and Construction - Housing General Provisions - General Provisions filed October 16, 2000 is repealed, effective 07/01/04.

14.1.5 NMAC, Housing and Construction - Housing General Provisions - Recertification, filed October 16, 2000 is repealed, effective 07/01/04.

14.5.1 NMAC, Housing and Construction - Construction Industries General Provisions - Open Meetings Act filed October 16, 2000 is repealed and replaced effective 07/01/04 as 14.5.1 NMAC, Housing and Construction - Construction Industries General Provisions - General Provisions, effective 07/01/04.

14.5.2 NMAC, Housing and Construction - Construction Industries General Provisions - Permits filed October 16, 2000 is repealed and replaced effective 07/01/04 as 14.5.2 NMAC Housing and Construction - Construction Industries General Provisions - Permits, effective 07/01/04.

14.5.3 NMAC, Housing and Construction - Construction Industries General Provisions - Inspections filed October 16, 2000 is repealed and replaced effective 07/01/04 as 14.5.3 NMAC Housing and Construction - Construction Industries General Provisions - Inspections, effective 07/01/04.

14.5.4 NMAC, Housing and Construction - Construction Industries General Provisions - Alternative Materials, Methods and Assemblies of Construction filed October 16, 2000 is repealed and replaced effective 07/01/04 by that portion of 14.5.1 NMAC, Housing and Construction - Construction Industries General Provisions - General Provisions, effective 07/01/04.

14.5.5 NMAC, Housing and Construction - Construction Industries General Provisions - Fees filed October 16, 2000 is repealed and replaced effective 07/01/04 as 14.5.5 NMAC Housing and Construction -

Construction Industries General Provisions - Fees, effective 07/01/04.

14.5.6 NMAC, Housing and Construction, General Provisions, Classifications and Scopes filed October 16, 2000 is repealed effective 07/01/04 and replaced as 14.6.6 NMAC, Construction Industries Licensing, Classifications and Scopes, effective 07/01/04.

14.5.7 NMAC, Housing and Construction, General Provisions, Technical Advisory Councils, Hearings, Appeals, Severability filed October 16, 2000 is repealed and replaced effective 07/01/04 as 14.5.1 NMAC Housing and Construction, General Provisions, effective 07/01/04.

14.7.2 NMAC, Housing and Construction - Building Codes General - 1997 New Mexico Building Code filed October 16, 2000 and 14 NMAC 7.3, Housing and Construction - Building Codes General - 1997 Uniform Building Code filed October 30, 1998 are repealed effective 07/01/04. Those applicable portions will be replaced by 14.7.2 NMAC Housing and Construction - Building Codes General - 2003 New Mexico Commercial Building Code and 14.7.3 NMAC, Housing and Construction - Building Codes General - 2003 New Mexico Residential Building Code, effective 07/01/04.

14.10.3 NMAC, Housing and Construction - Electrical Codes, National Electrical Code 2002, filed March 8, 2002 is repealed effective 07/01/04 and replaced as 14.10.4 NMAC, State of New Mexico Electrical Code, effective 07/01/04.

NEW MEXICO REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

TITLE 14 HOUSING AND CONSTRUCTION CHAPTER 5 CONSTRUCTION INDUSTRIES GENERAL PROVI- SIONS PART 1 GENERAL PROVI- SIONS

14.5.1.1 ISSUING AGENCY:
Construction Industries Division of the Regulation and Licensing Department.
[14.5.1.1 NMAC - Rp, 14.1.11 NMAC, 7-1-04]

14.5.1.2 SCOPE: This rule applies to all contracting work performed in

New Mexico on or after July 1, 2004, that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date.

[14.5.1.2 NMAC - Rp, 14.1.1.2 NMAC, 7-1-04]

14.5.1.3 STATUTORY AUTHORITY: NMSA 1978 Section 60-13-9.

[14.5.1.3 NMAC - Rp, 14.1.1.3 NMAC, 7-1-04]

14.5.1.4 DURATION: Permanent.

[14.5.1.4 NMAC - Rp, 14.1.1.4 NMAC, 7-1-04]

14.5.1.5 EFFECTIVE DATE: July 1, 2004, unless a later date is cited at the end of a section.

[14.5.1.5 NMAC - Rp, 14.1.1.5 NMAC, 7-1-04]

14.5.1.6 OBJECTIVE: The purpose of this rule is to set forth general provisions governing contracting work in New Mexico.

[14.5.1.6 NMAC - Rp, 14.1.1.6 NMAC, 7-1-04]

14.5.1.7 DEFINITIONS: The definitions in this section are used throughout the CID rules contained in Chapters 5 through 10 of Title 14.

A. Building official means the bureau chief of each trade bureau of the division.

B. CID and division mean the construction industries division of the regulation and licensing department.

C. CID rules means the rules compiled in Title 14, Chapters 5 through 10 of the New Mexico administrative code.

D. CILA means the Construction Industries Licensing Act, NMSA 1978 Section 60-13-1 et seq.

E. Commission means the construction industries commission.

F. Contracting has the meaning given in NMSA 1978 Section 60-13-3.

G. Director has the meaning given it in NMSA 1978 Section 60-13-2.

H. IBC means the 2003 international building code.

I. IFC means the 2003 international fire code.

J. IRC means the 2003 international residential code.

K. LPG Standards means 19.15.40 NMSA, Liquefied Petroleum Gas Standards, and NMSA 1978 70-5-1 et seq.,

Liquefied and Compressed Gasses, collectively.

L. New Mexico construction code(s) means any of the rules compiled in Title 14, Chapters 7 through 10 of the New Mexico administrative code.

M. NMBSS means 14.7.5 NMAC, 2003 New Mexico Non-Load Bearing Baled Straw Construction Building Standards.

N. NMCBC means 14.7.2 NMAC, 2003 New Mexico Commercial Building Code, which adopts by reference and amends the 2003 international building code.

O. NMEBC means 14.7.7 NMAC, 2003 New Mexico Existing Building Code, which adopts by reference and amends the 2003 international existing building code.

P. NMEBMC means 14.7.4 NMAC, 2003 New Mexico Earthen Building Materials Code.

Q. NMEC means 14.10.4 NMAC, 2002 New Mexico Electrical Code, which adopts by reference and amends the 2002 national electrical code.

R. NMECC means 14.7.6 NMAC, 2003 New Mexico Energy Conservation Code, which adopts by reference and amends the 2003 international energy conservation code.

S. NMESC means 14.10.5 NMAC, 2002 New Mexico Electrical Safety Code, which adopts by reference and amends the 2002 national electrical safety code.

T. NMMC means 14.9.2 NMAC, 2003 New Mexico Mechanical Code, which adopts by reference and amends the 2003 uniform mechanical code.

U. NMPC means 14.8.2 NMAC, 2003 New Mexico Plumbing Code, which adopts by reference and amends the 2003 uniform plumbing code.

V. NMRBC means 14.7.3 NMAC, 2003 New Mexico Residential Building Code, which adopts by reference and amends the 2003 international residential code.

W. NMSEC means 14.9.6 NMAC, 2003 New Mexico Solar Energy Code, which adopts by reference and amends the 1997 uniform solar energy code.

X. NMSPC means 14.8.3 NMAC, 2003 New Mexico Swimming Pool, Spa, and Hot Tub Code, which adopts by reference and amends the 2000 uniform swimming pool, spa, and hot tub code.

Y. Published code means any code or standard published by an entity other than the state of New Mexico and adopted by reference, or referred to as a standard in the CID rules.

Z. ULA means NMSA 1978 Section 61-1-1 et seq., the Uniform

Licensing Act.

[14.5.1.7 NMAC - Rp, 14.1.1.7 NMAC, 7-1-04]

14.5.1.8 RESPONSIBILITY FOR COMPLIANCE:

A. Every person who performs work in connection with the installation or repair of any building, structural, electrical, gas, mechanical or plumbing system regulated by the CID rules is responsible for complying with the CID rules.

B. When a violation of a New Mexico construction code is alleged, a building official shall investigate the allegation to obtain sufficient evidence or proof to determine whether a violation has occurred. The building official may require tests, at no cost to CID, to determine compliance. Such tests shall be conducted in conformance with nationally recognized testing standards, or if no standards have been established, in conformance with such specifications as the building official shall approve. Such reports and tests shall include those published or conducted by reliable and reputable sources approved by the building official, in accordance with CILA.

[14.5.1.8 NMAC - Rp, 14.7.2.10 NMAC, 14 NMAC 9.2.I.100 & 14 NMAC 9.2.II.100, 7-1-04]

14.5.1.9 CONFLICTS:

A. Between current New Mexico construction codes. When the provisions of one New Mexico construction code specifies different materials, methods, construction, or other requirements than provisions or other New Mexico construction codes, the general rule of interpretation to be applied is that the most restrictive provision shall apply, and the most specific provision shall govern more general provisions. If it is determined by the building officials responsible for enforcing the codes that the conflict between the provisions should be resolved by a different interpretation, the building officials' determinations shall control.

B. With prior New Mexico construction codes. The New Mexico construction codes shall not apply to require a change in any structure existing at the time such code(s) become effective provided that the structure was constructed and has been maintained in compliance with the laws and CID rules in effect at the time the existing structure was constructed or maintained; and provided that, if all or any part of the structure is determined to be unsafe, 14.5.1.12 NMAC will govern.

C. With requirements of other agencies. When a regulatory agency other than CID may or might have jurisdiction over certain aspects of a project, a person working on the project must cooperate

with any such agency to ensure compliance with all applicable requirements of that agency. Such aspects may include, but are not limited to, compliance with fire code standards enforced by the state fire marshal, or any local fire code enforcement agency; or any other applicable code or standard enforced by the state environment department; the state health department, state human services department; the public regulation commission; the governor's committee on the concerns of the handicapped; and local zoning and historical authorities. From time to time, CID may, as permitted by law, enter into agreements with other regulatory agencies pursuant to which the other agency's requirements are made a prerequisite to a CID action. In such cases, satisfaction of such a prerequisite will not constitute full compliance with the other agency's requirements.

D. With other laws. The CID rules shall not be deemed to contravene or invalidate any other valid federal, state or local law.

E. With referenced and incorporated codes and standards. The provisions of any published code or standard referenced in the CID rules shall be deemed to be incorporated into and made part of the CID rules, to the extent that such reference requires, and with all such modifications and amendments as may be made to the provision. If the reference results in a conflict between the provision of the published code or standard and the CID rules, the CID rules shall govern.

[14.5.1.9 NMAC - Rp, 14.7.2.8 NMAC, 14 NMAC.9.2.8, 14NMAC.9.2. I.100, 14 NMAC 9.2.II.100 & 14.10.4.10 NMAC 7-1-04]

14.5.1.10 BUILDING OFFICIALS:

A. Powers and duties. Each building official is authorized to render interpretations of the New Mexico construction code that the official is responsible for enforcing and to establish procedures for the interpretation and application of that code. In making such interpretations and procedures, the building official may rely on such expert opinion as may be prudent or necessary, subject to budgetary constraints and other applicable administrative matters as determined by the director. The interpretations and procedures established by a building official pursuant to the CID rules shall be consistent with the intent of the New Mexico construction code to which they apply, and shall not nullify or otherwise negate such intent or be in conflict with any express provision of such code.

B. Notices. The building official shall timely issue, or cause to be issued, all notices required by CILA, the

CID rules and the ULA, in order to ensure compliance with the New Mexico construction codes and any other laws applicable to contracting in the state of New Mexico.

[14.5.1.10 NMAC - Rp, 14.7.2.10 NMAC, 14 NMAC 9.2.I 100, 14 NMAC 9.2.II 100 & 14.10.4.9 NMAC, 7-1-04]

14.5.1.11 ALTERNATIVE MATERIALS, METHODS, AND ASSEMBLIES OF CONSTRUCTION:

None of the New Mexico construction codes shall be interpreted to prevent the use of any material, method, or assembly of construction not specifically prescribed by the codes. A building official is authorized to permit a variance or approve an alternative as provided in this section.

A. Variances. If the circumstances of a particular construction project make strict compliance with a provision of an applicable code or standard impossible or impracticable, the building official responsible for enforcing that code or standard has the authority to approve a variance to the provision; provided, however, that any such variance must be consistent with the intent of the code, and shall not nullify or otherwise negate such intent, nor shall such variance adversely affect health, life-safety, accessibility, fire resistance or structural requirements otherwise applicable in the circumstances. No variance shall be valid or have force or effect unless in writing and signed by the appropriate building official.

B. Alternatives. A building official is authorized to, in accordance with the New Mexico construction code for which the official is responsible, approve materials, designs and methods or assemblies of construction that are not expressly specified in that code if the alternative complies with the intent of that code; provided, however, that the alternative is equivalent in quality, strength, effectiveness, fire resistance, durability and safety as the required code provision. See specific New Mexico construction codes for additional information.

C. Supporting data. A building official is authorized to require sufficient evidence or proof in determining whether a variance or alternative is permissible. The building official is authorized to require tests, at no cost to CID, to determine whether the proposed variance or alternative is in compliance with the intent of the code. Such tests shall be conducted in conformance with nationally recognized testing standards, or if no standards have been established, in conformance with such specifications as the building official shall approve. Such reports and tests shall include those published or conducted by reliable and reputable sources approved by

the building official, in accordance with CILA.

[14.5.1.11 NMAC - Rp, 14.5.4.8 NMAC, 14.7.2.9 NMAC, 14 NMAC 9.2.I 100 & 14 NMAC 9.2.II 100, 7-1-04]

14.5.1.12 UNSAFE STRUCTURES.

A. Whenever the building official or inspector discovers a condition in a structure that constitutes an unsafe condition, the building official, or the designee of the building official, shall take the following action:

(1) if the unsafe condition results from construction in progress, issue a correction notice and/or stop work order as is necessary to abate the unsafe condition;

(2) if the unsafe condition is in an existing building, prepare a report identifying the location of the structure and the unsafe condition observed. The report shall be provided to the local authority having jurisdiction of the structure and to the owner, agent or person in control or possession of the structure when the identity of owner, agent or person can be readily determined; or

(3) if the unsafe condition relates to any utility service the building official or inspector shall proceed in accordance with Subsections A through D of NMAC 1978 Section 60-13-42; any service disconnected pursuant to this rule shall not be reconnected without the prior written approval of the building official or inspector.

B. For purposes of this section, an unsafe condition is any condition that constitutes a violation the CID rules and poses an actual threat to the health, safety or welfare of persons or property.

[14.5.1.12 NMAC - Rp, 14.7.2.10 NMAC, 14 NMAC 9.2.I 100, 14 NMAC 9.2.II 100 & 14.10.4.8 NMAC, 7-1-04]

14.5.1.13 TECHNICAL ADVISORY COUNCILS, HEARINGS, APPEALS:

A. Technical advisory council.

(1) The commission may appoint technical advisory councils to assist the bureaus and/or division in an advisory manner on material and code approvals and technical aspects of the particular industry involved.

(2) These councils will meet at the call of the applicable bureau chief or the council chairman. Recommendations of the councils will be presented to the commission. The technical advisory council will provide a forum of input from the industry in their specific area of expertise.

(3) The technical advisory councils may review revenues, budgets and per-

mits and inspect performance in order to make semi-annual recommendations as to permit fee modifier adjustments.

B. Hearing officer.

(1) The appointment of a hearing officer by the director shall be deemed the action of the commission.

(2) The hearing officer shall have authority to issue subpoenas.

C. Appeals.

(1) Any person may register an appeal with the division director for the review of any decision of any bureau, its employees or agents, provided such appeal is made in writing within twenty (20) days after notice of such decision has been received by the complainant. Upon receipt of such appeal, the director shall determine if the action covered by the complaint is in conformity with the provisions of the order, rules and regulations of the division. Within twenty (20) days after receipt of the appeal, the Director shall render his decision in writing in accordance with his findings.

(2) Any person aggrieved by the decision of the director may appeal to the commission in writing within twenty (20) days from receipt of the director's decision. The commission shall render its decision in writing within twenty (20) days after its next regular meeting after said appeal has been filed.

(3) Appeals from the decision of the commission shall be made in writing to the district court of the county of the residence of the aggrieved party within twenty (20) days after the decision of the commission has been delivered to the complainant, as provided in NMSA 1978 Section 61-1-17.

[14.5.1.13 NMAC - Rp, 14.5.7.8 NMAC, 7-1-04]

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 5 CONSTRUCTION
INDUSTRIES GENERAL PROVI-
SIONS
PART 2 PERMITS**

14.5.2.1 ISSUING AGENCY: The Construction Industries Division of the Regulation and Licensing Department.
[14.5.2.1 NMAC - Rp, 14.5.2.1 NMAC, 7-1-04]

14.5.2.2 SCOPE: This rule applies to all contracting work performed in

New Mexico on or after July 1, 2004, that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date.

[14.5.2.2 NMAC - Rp, 14.5.2.2 NMAC, 7-1-04]

14.5.2.3 STATUTORY AUTHORITY: NMSA 1978 Sections 60-13-9 and 60-13-45.

[14.5.2.3 NMAC - Rp, 14.5.2.3 NMAC, 7-1-04]

14.5.2.4 DURATION: Permanent.

[14.5.2.4 NMAC - Rp, 14.5.2.4 NMAC, 7-1-04]

14.5.2.5 EFFECTIVE DATE: July 1, 2004, unless a later date is cited at the end of a section.

[14.5.2.5 NMAC - Rp, 14.5.2.5 NMAC, 7-1-04]

14.5.2.6 OBJECTIVE: The purpose of this rule is to set forth standards and requirements for permitting construction in New Mexico.

[14.5.2.6 NMAC - Rp, 14.5.2.6 NMAC, 7-1-04]

14.5.2.7 DEFINITIONS: [Reserved]

14.5.2.8 PERMITS REQUIRED:

A. Permits required. Subject to CILA Section 60-13-3, section 60-13-45, and the provisions of the CID rules, no building or structure shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished, and no electrical wiring, plumbing or mechanical work as defined and described in the applicable New Mexico construction codes for those trades, may be installed, repaired or maintained in or on such building or structure, unless the applicable permit has first been obtained from the division.

B. Exceptions to permit requirement. Exceptions from permit requirements of the New Mexico construction codes shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of CILA, any part of the CID rules, or any other applicable law.

C. Previously permitted work; previously submitted plans.

(1) Any work for which a permit has lawfully been issued prior to the effective date of this rule, which permit has not expired, deactivated or been revoked or suspended by the division pursuant to this part,

may proceed as permitted, and the rules, codes and standards in effect at the time the permit was issued shall be the rules, codes and standards governing the work and its inspection.

(2) Any work for which plans have been submitted and received by the division shall be permitted and inspected pursuant to the rules in effect at the time the plans were received.

D. Eligibility. No person who is not appropriately, validly and currently licensed by the division is eligible to apply for or be issued a permit under this rule. **Exception.** Subject to the provisions of this part, a homeowner's permit may be issued to an unlicensed person.

E. Application for permit. In order to obtain a permit, the applicant must complete and submit a written application on the form and in the manner indicated by the division for the type of permit sought.

F. Types. Separate permits are required for general building, electrical and mechanical/plumbing, and liquefied petroleum gas work.

[14.5.2.8 NMAC - Rp, 14.5.2.8 NMAC, 14.7.2.10 NMAC, 14 NMAC 9.2.I.100-105, 14 NMAC 9.2.II.100 & 14.10.4.8 NMAC, 7-1-04]

14.5.2.9 EXCEPTIONS TO REQUIREMENT FOR PERMITS: Permits shall not be required for the following:

A. Commercial.

(1) One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11.15.m2).

(2) Fences not over 6 feet (1829) high.

(3) Oil derricks.

(4) Retaining walls that are not over 4 feet (1,219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding class I, II, or III-A liquids.

(5) Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18,927L) and the ratio of height to diameter or width does not exceed 2 to 1.

(6) Sidewalks and driveways not more than 30 inches (762 mm) above grade and not over any basement or story below and which are not part of an accessible route.

(7) Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

(8) Temporary motion picture, television and theater stage sets and scenery.

(9) Prefabricated swimming pools accessory to a group R-3 occupancy, as applicable in the NMRBC, which are less than 24 inches (610mm) deep, do not exceed 5,000 gallons (19,000L) and are installed entirely above ground.

(10) Shade cloth structures constructed for nursery or agricultural purposes and not including services systems.

(11) Swings and other playground equipment accessory to one-and two-family dwellings.

(12) Window awnings supported by an exterior wall of group R-3, as applicable in the NMRBC, and group U occupancies.

(13) Moveable cases, counters and partitions not over 5 feet 9 inches (1,753mm) in height.

(14) Any work not otherwise regulated by the New Mexico construction codes and the CID rules.

B. Residential: Refer only to the "building" portion of Section R105.2 of the IRC, and add a new section: 10. Any work that is not otherwise regulated by a specific provision of the NMRBC.

C. Mechanical work. Refer to section 112.2 of the UMC.

D. Plumbing work. Refer to section 103.1.2 of the UPC.

E. Electrical work. No exceptions other than those set forth in CILA Section 60-13-45.

[14.5.2.9 NMAC - Rp, 14.7.2.10 NMAC, 14 NMAC 9.2.I 100-105 & 14 NMAC 9.2.II 100, 7-1-04]

14.5.2.10 SUBMITTAL DOCUMENTS:

A. Submittal documents.

(1) With each application for a permit, and when required by the building official or elsewhere in the CID Rules, two (2) sets of the following documents (collectively, submittal documents) must be submitted:

(a) type, occupancy and kind of structure;

(b) plans;

(c) specifications;

(d) engineering calculations;

(e) diagrams;

(f) soil investigation reports;

(g) other any other data or document required by the building official or the plan review official; and

(h) exterior wall envelope; submittal documents for all buildings shall describe the exterior wall envelope in sufficient detail to enable the plan review to determine compliance with the NMCBC and the NMRBC; the submittal documents shall show the exterior wall envelope in detail as required, including flashing, intersections with dissimilar materials, corners,

end details, control joints, intersections at roof, eaves, or parapets, means of drainage, water-resistive membrane, and details around openings.

(2) For construction subject to the NMCBC, see sections 106.1.1, 106.1.2, 106.2 of the IBC for other requirements regarding submittal documents, including form, means of egress, and site plans.

(3) For construction subject to NMRBC, see sections 106.1.1, 106.1.2, 106.1.3 and 106.2 of the IRC for other requirements regarding submittal documents, including form, manufacturer's installation instructions, construction in flood areas, and site plans.

(4) Upon approval, one (1) set of the submittal documents shall be retained by the division, and one (1) set shall be returned to the permittee, shall be available at the work site, and shall be available for inspection by the building official or inspector during the performance of the permitted work.

(5) The building official may require submission of any specifications, drawings or diagrams necessary to show clearly the kind and extent of building construction work for which a permit application has been submitted.

B. Professional seals requirements: The building official or the plan review official is authorized to require submittal documents to be prepared and sealed by an architect, registered in accordance with the New Mexico Architectural Act, and the rules promulgated pursuant thereto, and/or by a professional engineer, registered in accordance with the New Mexico Engineering and Surveying Practice Act, and the rules promulgated pursuant thereto. An architect and/or engineer stamp is required for all uses listed in table 1004.1.2 in the IBC.

C. Exceptions: The requirement for plans and specifications to be prepared by an architect and/or engineer shall not be required in any of the following instances unless, in the discretion of the building official, an exception is not in the best interests of public safety or health.

(1) Multiple dwellings of not more than two (2) stories in height and containing not more than four (4) dwelling units constructed of materials approved for use pursuant to the NMRBC, and provided that this exception is not construed to allow a person who is not an architect to design multiple clusters of four (4) dwelling units each where the total exceeds four (4) dwelling units on each lawfully divided lot.

(2) Garages or other structures not more than two (2) stories in height which are appurtenant to buildings described in paragraph (a) of this section.

(3) Group A, B, E divisions 1 and

2, F, M, S, U buildings or additions having a total occupant load of ten (10) or less (as defined in section 1003.2.2 and table 1003.2.2.2 of the IBC), and not more than two (2) stories in height.

(4) Alteration to buildings or structures that present no unusual conditions or hazards or change in occupancy.

(5) Single-family dwellings, not more than two (2) stories in height.

D. Submission may be waived. The building official may waive the submission of plans, calculations, construction inspection requirements and other data if it is found that the nature of the work applied for is such that plan review is not necessary to obtain compliance with the New Mexico construction codes.

E. Deferred submittals. For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted with the application for the permit, and that are to be submitted, thereafter, within a period specified by the building official or the plan review official.

F. Approval. Deferral of any submittal items must have the prior approval of the building official. The responsible design professional shall list the deferred submittals on the submittal documents accompanying the permit application. Submittal documents for deferred submittal items must be submitted to the responsible design professional who shall review and forward them to the division with a notation indicating that the deferred submittal documents have been reviewed and that they have been found to be in general conformance with the design of the building. The items identified in the deferred submittals shall not be installed until the building official has approved their design and submittal documents.

G. Responsible design professional. When submittal documents are required to be prepared by a registered design professional, the permit application shall indicate the registered design professional who shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building. This design professional shall be deemed to be the "responsible design professional." The permittee shall notify the division in writing within a reasonable period of time, not to exceed ten (10) business days, if the responsible design professional is changed or is unable to continue to perform the duties required.

H. Special submissions. The building official or the plan review official is authorized to require, before and after the commencement of a project, the sub-

mission of any specification, drawing or diagram necessary to adequately and clearly show the kind, extent, and occupancy of the general building, mechanical and/or plumbing, and electrical work on the project that is covered by the permit issued, or that is required to be permitted under the CID rules.

I. Phased approval. See section 106.3.3 of the IBC for work subject to the NMCBC, and section 106.3.3 of the IRC for work subject to the NMRBC.

J. Correction of submittal documents. The issuance of a permit based on certain plans and specifications shall not prevent the building official from thereafter requiring the correction of any error in such plans or specifications, or from prohibiting work pursuant to those plans or specifications when a violation of the applicable code would result.

K. Electrical projects.

(1) Any installation with a calculated service capacity over 100 kVA single-phase or over 225 kVA three phase must be stamped by an electrical engineer, registered in accordance with the New Mexico Engineering and Surveying Practice Act. This requirement shall not apply to remote installations such as irrigation pumps. Any commercial project that requires an architect or engineer seal pursuant to this part, shall be submitted to the electrical bureau for review and approval.

(2) Submittal documents shall show the electrical riser, conductor size, grounding conductor size, method of grounding (available electrodes, etc.), load calculations, available fault calculations, size and location of disconnects, panel schedules, wiring methods, site and floor plan. General expressions such as "work shall be done in accordance with the New Mexico Electrical Code" or "work shall be done to the satisfaction of the state building official" shall be considered inadequate, and incomplete.

(3) No permit for electrical work shall be issued for the addition to, or alteration of, wiring of an existing building unless the building as it will be wired conforms to the requirements of the code for new buildings, except that those portions of the existing wiring that have not been disturbed and are deemed safe by the inspector may remain in service.

L. Mechanical projects.

(1) The building official is authorized to require the stamp of a professional engineer, registered in accordance with the New Mexico Engineering and Surveying Practice Act on permits for mechanical and/or plumbing work with a total value of \$50,000.00, or more, and/or for commercial buildings three stories and higher.

(2) For plans for buildings for

more than two stories in height, other than R-3 and U occupancies, see the second paragraph of section 113.3 of the UMC.

M. Permit contents and display. Pursuant to CILA Section 60-13-59, every permit or notice of permit issued by the division shall:

(1) clearly indicate the name and address of the owner of the property;

(2) contain a legal description of the property being built on either by "lot and block" description in a subdivision, by street address in a municipality, or by township, range and section numbers if outside a municipality or platted subdivision;

(3) contain the name, address and license number of the contractor or the homeowner to whom the permit is to be issued, and the name of the architect and/or engineer as may be required by the building official; and

(4) be prominently displayed on the site where the permitted work is to be performed.

N. Retention. The division shall retain construction documents, including submittal documents and permit applications, in accordance with New Mexico state laws governing document retention.

O. Preliminary inspection. As part of the document review process, before issuing a building permit, the building official is authorized to examine or cause to be examined buildings, structures and sites for which an application for a building permit has been filed.

[14.5.2.10 NMAC - Rp, 14.5.2.8 NMAC, 14.5.2.9 NMAC, 14.5.2.10 NMAC, 14.7.2.10 NMAC, 14 NMAC 9.2.I.100, 14 NMAC 9.2.II.100 NMAC & 14.10.4.8 NMAC, 7-1-04]

14.5.2.11 ISSUANCE:

A. Plan review. Within a reasonable time after receipt, the division shall review submittal documents for compliance with the applicable New Mexico construction codes and the CID rules. If the submittal documents do not comply, the division shall reject them and shall communicate the reasons for rejection to the applicant in writing. If the submittal documents meet the applicable codes and rules, the submittal documents shall be approved, in writing or by stamp, as "reviewed" and the division shall issue a permit to the applicant after payment in full of the applicable permit fees, as set forth in 14.5.5 NMAC, Fees.

B. Authorization to change. No change or modification may be made to approved submittal documents for which a permit has been issued without the express, written authorization of the building official. All work authorized by a permit must be performed in accordance with

the approved submittal documents for which the permit was issued. Changes in the work authorized by a permit must be reflected in an amended set of submittal documents, which must be resubmitted for approval by the division

[14.5.2.11 NMAC - Rp, 14.7.2.10 NMAC, 14 NMAC 9.2.I.100 & 14 NMAC 9.2.II.100, 7-1-04]

14.5.2.12 VALIDITY OF PERMIT:

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of the New Mexico construction codes or any other applicable law or rule. Permits presuming to give authority to violate or cancel the provisions of the New Mexico construction codes or any other applicable law or rule shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data.

[14.5.2.12 NMAC - Rp, 14.7.2.10 NMAC, 7-1-04]

14.5.2.13 SUSPENSION, CANCELLATION, OR REVOCATION OF PERMIT:

A. The building official is authorized to suspend, cancel or revoke a permit issued pursuant to the code for which the official has responsibility in the following causes:

(1) whenever the permit is issued in error, or on the basis of incorrect, inaccurate or incomplete information;

(2) whenever the permit was issued in violation of the CID rules;

(3) when there is no contractor on the job;

(4) work stoppage;

(5) change in the person or entity performing the work;

(6) at the request of the permittee.

B. A suspended permit may be reactivated upon approval of the appropriate building official and payment of any fee assessed pursuant to 14.5.5 NMAC, Fees.

[14.5.2.13 NMAC - Rp, 14.5.2.12 NMAC & 14.7.2.10 NMAC, 7-1-04]

14.5.2.14 EXPIRATION AND DEACTIVATION OF PERMIT:

A. Expiration. Every permit issued by the division under the provisions of the CID rules shall expire and be void if the work authorized by such permit is not commenced within 180 days from the date such permit was issued.

B. Deactivation. If the work authorized by a permit is suspended, delayed or abandoned at any time after the

work is commenced and such suspension, delay or abandonment continues for 180 days, the permit shall become inactive.

(1) Reactivation. An inactive permit may be reactivated if the work resumes within one (1) year from the date the permit was issued, upon approval of the building official and payment of a fee equal to 1/2 of the original permit fee. Such reactivated permit will authorize work only to the extent it conforms to the submission documents on which the original permit was issued.

(2) Cancellation. If work does not resume within one (1) year from the date the inactive permit was issued, the inactive permit will automatically cancel. In order for work on the project to continue, a new permit application must be submitted, a new, full permit fee must be remitted, and a new permit issued.

C. Extension of time. The building official may extend the time of an active permit for an additional period not to exceed 180 days on receipt of a written request from the permit holder showing that circumstances beyond the control of the permittee have caused delay in the permitted work.

D. Penalties. Any work performed after a permit expires, cancels or becomes inactive shall constitute a violation of the CID rules and the person performing the work, or causing the work to be performed, may be subject to penalties as provided in the CILA.

[14.5.2.14 NMAC - Rp, 14.7.2.10 NMAC, 14 NMAC 9.2.I.100, 14 NMAC 9.2.II.100 & 14.10.4.8 NMAC, 7-1-04]

14.5.2.15 DENIAL OF PERMIT:

A. The director may deny the issuance of a permit and associated inspections for good cause. Good cause shall include, without limitation:

(1) failure to pay all or part of a permit fee or penalty when due;

(2) payment of any amount due the division with a "non-sufficient funds" check; and

(3) an outstanding balance on any amounts due the division that has accrued without approval of the director.

B. After receipt of a "non-sufficient funds" check, the division may require payment in cash, or cashier's check. [14.5.2.15 NMAC - Rp, 14.5.2.8 NMAC, 7-1-04]

14.5.2.16 FAILURE TO OBTAIN PERMIT: If any work, other than site preparation, for which a permit is required is commenced prior to obtaining the necessary permit, the building official may either assess a fee in the amount of

twice the usual permit and inspection fees, or refer the violation for disciplinary action by the division.

[14.5.2.16 NMAC - Rp, 14.7.2.10 NMAC, 7-1-04]

14.5.2.17 TEMPORARY STRUCTURES:

A. Permits. The building official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall specify an expiration date not to exceed one (1) year from the date of issuance. The building official is authorized to grant extensions for good cause that is supported by credible evidence.

B. Conformance. See section 107.2 of the IBC.

C. Temporary power. A permit may be issued by the appropriate building official authorizing a connection of a temporary system for supplying electrical power, water, gas, or sewage service, after inspection and testing by the inspector. When the temporary use of such system is no longer required, the permittee shall notify the appropriate building official or inspector. The temporary work permit may be canceled by the building official or the inspector if the temporary work that is covered by the permit has not passed a pre-final inspection within one (1) year after the permit was issued. Upon receipt of written notice of such cancellation, the appropriate utility shall discontinue service to such system, and service shall not be resumed until a new permit for the work on the system is issued.

D. Termination of approval. The building official is authorized to terminate a permit for a temporary structure when it appears to the building official that it is in the best interests of health, safety and welfare to do so.

[14.5.2.17 NMAC - Rp, 14 NMAC 9.2.I 100-105, 14 NMAC 9.2.II 100 & 14.10.4.8 NMAC, 7-1-04]

14.5.2.18 HOMEOWNER'S PERMIT:

A. Homeowner's permits are limited to R-3 single-family dwellings, U-1 private garages, carports, sheds and agricultural buildings, and U-2 fences. No application for a homeowner's permit may be made to cover construction of any structure, or installations within any structure, or construction of part of a structure, where the use will be anything but residential purposes. This applies to additions to residential dwellings that will not be used for residential purposes. Further, homeowner's permits may not be used to cover construction of any structure, or installations within any structure, or construction of part of a struc-

ture, where the homeowner will not personally reside.

B. Any person applying for a homeowner's permit in order to construct a personal residence in accordance with Paragraph (10) of Subsection D of CILA Section 60-13-3 must sign a homeowner's permit responsibility sheet issued by the division, or its authorized local building department, acknowledging legal responsibilities and liabilities before obtaining such a permit.

C. The homeowner's permit covers general, residential construction only.

D. A homeowner's permit may not be used to permit a project where a GB-2 or GB-98 contractor is acting as a general contractor on the project. Any contractor acting as a general contractor on a project where there is a homeowner's permit must obtain a building permit for his work, and shall be held responsible for any work performed at this site. Further, licensed subcontractors will be held responsible for their work, which also must be permitted separately.

E. A homeowner may do electrical and/or plumbing work on his home (single-family dwelling) only if he has sufficient knowledge and experience to do so, as determined by approval by the appropriate building official of the plans for the proposed work and after completing a written examination administered by the building official with a grade of seventy-five percent (75%) or more. If the examination is not passed, it may be repeated not sooner than thirty (30) days after the date of the failed exam.

F. After approval of the submitted plans and satisfactorily passing the written examination(s), the homeowner then must obtain the applicable permit(s) for the electrical and/or plumbing work and must pay the required inspection fees.

G. Homeowner's permit projects may not be placed on the market for sale while under construction. Such an action violates the requirements of paragraph (10) of Subsection D of CILA Section 60-13-3, and will result in the automatic void of the permit by the division. Such a violation may also result in initiation of unlicensed contracting charges against the homeowner in accordance with the requirement of CILA Section 60-13-52.

H. No more than one (1) homeowner's permit for an R-3 single-family dwelling shall be issued to the same person within any twelve (12) month period.

I. Where a homeowner's permit is involved, a properly licensed contractor must install HVAC and natural gas or LP gas installations. This work shall be permitted and inspected pursuant to the

standard requirements of the division.

[14.5.2.18 NMAC - Rp, 14.5.2.10 NMAC & 14.7.2.10 NMAC, 7-1-04]

14.5.2.19 ANNUAL PERMIT:

A. An annual permit may be obtained in accordance with CILA Section 60-13-46.

B. The electrical and/or mechanical journeyman who qualifies for an annual permit holder shall be a full-time employee of such permit holder.

C. At regular intervals, the inspector having jurisdiction shall visit all buildings and premises where work is being done under an annual permit and shall inspect all work done under such permit since the date of his last visit. He shall issue a certificate of approval for such work as is found to be in conformity with applicable code and these rules after payment of all required fees.

D. An annual permit holder who fails to keep a complete and accurate record of all work done under his annual permit shall forfeit the right to such annual permit, shall turn it in to the division upon demand, and shall not be eligible to apply for another annual permit for one (1) year thereafter.

E. An annual permit shall expire twelve (12) months from the date of issuance.

[14.5.2.19 NMAC - Rp, 14.5.2.10 NMAC, 7-1-04]

14.5.2.20 EMERGENCY

WORK: Where equipment replacement or repairs must be performed in an emergency situation, application for the appropriate permit must be made on the next working business day either by computer or in person at one of the division offices.

[14.5.2.20 NMAC - Rp, 14.7.2.10 NMAC, 7-1-04]

14.5.2.21 CONNECTION OF SERVICE UTILITIES:

Except where work is done under an annual permit, no person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by the New Mexico construction codes for which a permit is required, until approved by the appropriate building official or a designated representative.

[14.5.2.21 NMAC - Rp, 14.5.3.8 NMAC, 14 NMAC 9.2.I.100, 14 NMAC 9.2.II 100 & 14.10.4.8 NMAC, 7-1-04]

NEW MEXICO REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

TITLE 14 HOUSING AND CONSTRUCTION

CHAPTER 5 CONSTRUCTION INDUSTRIES GENERAL PROVI- SIONS

PART 3 INSPECTIONS

14.5.3.1 ISSUING AGENCY:

Construction Industries Division of the Regulation and Licensing Department.

[14.5.3.1 NMAC - Rp, 14.5.3.1 NMAC, 7-1-04]

14.5.3.2 SCOPE:

This rule applies to all contracting work performed in New Mexico on or after July 1, 2004, that is subject to the jurisdiction of CID, unless performed pursuant to permit for which an application was received by CID before that date.

[14.5.3.2 NMAC - Rp, 14.5.3.2 NMAC, 7-1-04]

14.5.3.3 STATUTORY AUTHORITY:

NMSA 1978 Sections 60-13-9 and 60-13-41.

[14.5.3.3 NMAC - Rp, 14.5.3.3 NMAC, 7-1-04]

14.5.3.4 DURATION:

Permanent.

[14.5.3.4 NMAC - Rp, 14.5.3.4 NMAC, 7-1-04]

14.5.3.5 EFFECTIVE DATE:

July 1, 2004, unless a later date is cited at the end of a section.

[14.5.3.5 NMAC - Rp, 14.5.3.5 NMAC, 7-1-04]

14.5.3.6 OBJECTIVE:

The purpose of this rule is to set forth requirements for inspections of all contracting work in New Mexico that is subject to the jurisdiction of CID.

[14.5.3.6 NMAC - Rp, 14.5.3.6 NMAC, 7-1-04]

14.5.3.7 DEFINITIONS:

[Reserved]

14.5.3.8 GENERAL PROVI- SIONS:

A. Application. All work for which a permit is issued must be inspected.

B. Code compliance. The inspections necessary to ensure that the

work complies with an applicable code shall be performed by the appropriate inspector under the direction of the building official responsible for that code.

C. Notification. It is the responsibility of the permittee, or the permittee's duly authorized agent, to timely notify the appropriate inspector when work is ready for inspection, and to provide access to, and the means to perform inspections of, the work. Notification shall be made as specified on the permit or in other instructions made available by the building official or the division, but in no event shall such notification be given less than twenty-four (24) hours before the work is to be inspected.

D. Violations. If, upon inspection, any permitted work is found not to be in full compliance with an applicable code, the inspector shall serve a written notice on the permittee citing the code violation observed and ordering that the violation be corrected. The permittee is responsible for notifying the inspector when all corrections have been made and the work is ready for re-inspection. Failure to comply with a correction notice within the time required by the building official or the inspector or, if no time is specified, within a reasonable time is a violation of the CID rules and may result in disciplinary action by the division.

E. Covered and unapproved work. Work must be visible to be inspected and shall not be covered or used before approval is given by the inspector. Work that is covered before it is inspected, tested, if applicable, and approved may be ordered uncovered by the inspector or building official. No work shall be performed in the course of the inspections process beyond what is required for the next inspection without approval of the inspector.

[14.5.3.8 NMAC - Rp, 14.5.3.8 NMAC, 7-1-04]

14.5.3.9 INSPECTIONS: The following inspections are required unless otherwise indicated:

A. For work subject to the NMCB:

(1) Footing and foundation inspection, see section 109.3.1 of the IBC.

(2) Concrete slab or under floor inspection, see section 109.3.2 of the IBC.

(3) Lowest floor elevation, see section 109.3.3 of the IBC.

(4) Frame inspection, see section 109.3.4 of the IBC.

(5) Weather resistive barrier inspection is to be made after installation of the appropriate weather resistive barrier and before such barrier is covered.

(6) Final inspection, see section

109.3.10 of the IRC.

B. For work subject to the NMRBC:

(1) Footing and foundation inspection, see section 109.1.1 of the IRC.

(2) Frame and masonry inspections, see section 109.1.4 of the IRC.

(3) Fire resistance rated construction inspection, see section 109.1.5.1 of the IRC.

(4) Weather resistive barrier inspection is to be made after installation of the appropriate weather resistive barrier and before such barrier is covered.

(5) Final inspection, see section 109.1.6 of the IRC.

C. For work subject to the NMEC:

(1) Temporary pole (if applicable).

(2) Underground or underslab (if applicable).

(3) Rough-in:

(a) on residential projects, all wiring must be installed and connections made-up;

(b) on commercial projects, perform inspections as required.

(4) Pre-final (if applicable).

(5) Final (electrical system is complete and energized).

D. For work subject to the NMMC:

(1) Rough inspection of all mechanical work covered by permit after work has been installed and before it is covered or concealed.

(2) Temporary heat (if applicable).

(3) Final inspection after all mechanical work covered by permit has been installed and covered and after fixtures and appliances have been attached.

(4) Operation of mechanical equipment installed to replace existing equipment or fixtures. See section 116.2 of the UMC.

E. For work subject to the NMPC:

(1) Rough inspection of all plumbing work covered by permit after work has been installed and before it is covered or concealed.

(2) Top-out inspection of all vented piping above floor and all extensions through the roof and/or walls. The top-out testing procedures are at the option of the inspector to insure the system is free from leaks or defects.

(3) Water distribution including all water piping inside and/or under a building.

(4) Water service piping from a service meter to a connection outside the building.

(5) Final inspection after all

plumbing work covered by permit has been installed and covered and after fixtures and appliances have been attached.

(6) Operation of plumbing equipment to replace existing equipment or fixtures, see Section 103.5.2 of the UPC.

(7) Testing of systems, see sections 103.5.3, including subsections 103.5.3.1 through 5, 103.5.6.2, 103.5.4.2 and 103.5.5.2 of the UPC.

F. Additional inspections. In addition to required inspections, the building official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of the applicable New Mexico construction codes.

[14.5.3.9 NMAC - Rp, 14.5.3.8 NMAC, 14.7.2.10 NMAC, 14 NMAC 9.2.I.100, 14 NMAC 9.2.II.100 & 14.10.4.8 NMAC, 7-1-04]

14.5.3.10 STOP WORK

ORDERS: When ever contracting is being performed contrary to the CID rules, the building official or inspector may order that the work be stopped and shall give written notice of such order to the person performing the work or causing the work to be performed. Any person receiving such notice shall cease and desist from performing, or causing the performance of, the work until authorized, in writing, by the building official or the inspector to proceed.

[14.5.3.10 NMAC - Rp, 14.7.2.10 NMAC, 14 NMAC 9.2.I.100, 14 NMAC 9.2.II.100 & 14.10.4.8 NMAC, 7-1-04]

14.5.3.11 INSPECTION OF WORK ON ANNUAL PERMIT:

No less often than once a calendar quarter, the inspector having jurisdiction shall visit all sites where work is authorized by an annual permit. The inspector shall inspect all work performed since the date of the last inspection. Violations of the applicable code shall be corrected pursuant to 14.5.3.8.4 NMAC. The inspector shall issue a certificate of approval for any work that has been performed in compliance with the applicable code and the applicable provisions of the CID rules.

[14.5.3.11 NMAC - Rp, 14.5.2.11 NMAC & 14.5.3.8 NMAC, 7-1-04]

14.5.3.12 PRODUCT STANDARDS AND APPROVALS:

A. Product approval.

Construction or installations shall not be approved as code compliant unless the products and materials used meet the standards set forth in the New Mexico construction codes.

B. Procedures for determining compliance. The building official has the authority to establish the procedures

necessary to determine whether products and materials meet the standards set forth in the New Mexico construction code for which the building official is responsible.

C. Marking systems.

Each building official has the authority to require marking/labeling systems to easily identify products that comply with the standards set forth in the New Mexico construction code applicable to those products.

D. Approval of listing agencies. Each building official has the authority to designate approved listing agencies whose testing standards and procedures, and marking/labeling, are such that they can be relied on to identify products and materials that are compliant with the standards established by the New Mexico construction code applicable to those products. A listing agency shall not be approved for certifying, marking/labeling products for use in New Mexico that does not certify compliance with the applicable New Mexico construction code on a reliable basis, and that does not provide an easy-to-identify marking system.

E. Use of approved materials - new and used. See sections 104.9 of the IRC and R104.9.1 of the IRC.

[14.5.3.12 NMAC - Rp, 14.5.3.8 NMAC & 14 NMAC 9.2.I.105, 7-1-04]

14.5.3.13 CERTIFICATES OF OCCUPANCY:

A. Occupancy. No building, or portion thereof, on which construction has been undertaken shall be occupied until the appropriate inspector has issued a certificate of occupancy, except that no certificate of occupancy shall be required for work not required to be permitted pursuant to any part of the CID rules or CILA.

B. Issuance. No certificate of occupancy shall be issued by the building official or the inspector until all of the required inspections have been performed, in the proper order, and the appropriate inspectors have approved the work.

C. Homeowner's permit. Any certificate of occupancy issued for a residence constructed pursuant to a homeowner's permit shall expressly state that the residence was so constructed.

D. Temporary certificate of occupancy. The appropriate inspector may issue a temporary certificate of occupancy for a period not to exceed one (1) year when:

(1) an analysis of the circumstances in any specific case indicates that a temporary certificate of occupancy is appropriate;

(2) life, safety or health will not be adversely affected by doing so; and

(3) good cause is shown by the permittee in a written request for an exten-

sion of a current, valid temporary certificate of occupancy.

E. Effect. The issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of the New Mexico construction codes or of other applicable laws. Certificates presuming to give authority to violate or cancel the provisions of any applicable code or other law shall not be valid. No certificate of occupancy shall certify, or be interpreted to certify, compliance with the requirements of any other regulatory agency that may or might have jurisdiction over aspects of a project that are outside the jurisdiction of the division. Such aspects include, but are not limited to, compliance with fire code standards enforced by the state fire marshal, or any local fire code enforcement agency; the state environment department; the state health department, the state human services department, the public regulation commission, or any other state or local regulatory agency.

F. Revocation or suspension.

(1) The general construction building official is authorized to suspend or revoke a certificate of occupancy if:

(a) the certificate was issued in error or on the basis of incorrect information; or

(b) the work violates an applicable New Mexico construction code or applicable provisions of the CID rules or CILA.

(2) A suspended certificate of occupancy may be reinstated upon approval of the appropriate building official and payment of any fee assessed pursuant to 15.5.5 NMAC, Fees.
[14.5.3.13 NMAC - Rp, 14.5.3.9 NMAC & 14.7.2.10 NMAC, 7-1-04]

14.5.3.14 INSPECTION AGENCIES: An inspection agency may be approved by the division to conduct inspections on behalf of the division, provided such agency has and maintains in its employ, certified inspectors for general construction, mechanical and electrical specialties, who are qualified under 14.6.5 NMAC, Inspectors.
[14.5.3.14 NMAC - Rp, 14.5.3.8 NMAC, 7-1-04]

14.5.3.15 CONNECTION APPROVAL:

A. Plumbing. No person shall connect, or reconnect, any plumbing system to an energy or water source or to a sewer system until the building official or authorized inspector has given approval to do so.

B. Mechanical. No person shall connect, or reconnect, any mechanical system or equipment to an ener-

gy, fuel or other power source until the building official or authorized inspector has given approval to do so.

C. Electrical. No person shall connect, or reconnect any electrical wiring to an energy source until the building official or authorized inspector has given approval to do so.

D. Exception. A public or private utility may make a connection from a supply of water or gas to an installation if, the appropriate building official has failed to approve or disapprove the work or installation to which the connection will be made within seven (7) working days after receiving notification that the work is ready to inspect.

[14.5.3.15 NMAC - Rp, 14.5.3.8 NMAC, 14 NMAC 9.2.I.100, 14 NMAC 9.2.II.100 & 14.10.4.8 NMAC, 7-1-04]

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 5 CONSTRUCTION
INDUSTRIES GENERAL PROVI-
SIONS
PART 5 FEES**

14.5.5.1 ISSUING AGENCY: Construction Industries Division of the Regulation and Licensing Department.
[14.5.5.1 NMAC - Rp, 14.5.5.1 NMAC, 7-1-04]

14.5.5.2 SCOPE: This rule applies to all persons requesting services provided by the division pursuant to CILA for which CILA requires or allows fees to be charged.
[14.5.5.2 NMAC - Rp, 14.5.5.2 NMAC, 7-1-04]

14.5.5.3 STATUTORY AUTHORITY: NMSA 1978 Sections 60-13-20, 60-13-38, 60-13-45 and 14-2-2.
[14.5.5.3 NMAC - Rp, 14.5.5.3 NMAC, 7-1-04]

14.5.5.4 DURATION: Permanent.
[14.5.5.4 NMAC - Rp, 14.5.5.4 NMAC, 7-1-04]

14.5.5.5 EFFECTIVE DATE: July 1, 2004, unless a later date is cited at the end of a section.
[14.5.5.5 NMAC - Rp, 14.5.5.5 NMAC, 7-1-04]

14.5.5.6 OBJECTIVE: The purpose of this rule is to set forth fees for services provided by the division as authorized by law.
[14.5.5.6 NMAC - Rp, 14.5.5.6 NMAC, 7-1-04]

14.5.5.7 DEFINITIONS:
[Reserved.]

14.5.5.8 CONTRACTOR'S LICENSE FEES:

A. Each applicant for an initial contractor's license shall pay a non-refundable license application fee of \$30.00 in addition to any other required fees.

B. The basic fee for an initial license or for renewal of a license for the GA-98, GB-2, GB-98, GF-98, EE-98 or MM-98 classification shall be \$100.00 per year, or \$200.00 for two years, for each such classification.

C. The basic fee for an initial license or for renewal of a license in any other classification shall be \$50.00 per year, or \$100.00 for two years.

D. Each applicant for an initial license or for any additional classification shall pay a non-refundable application fee of \$30.00.

E. If an applicant takes and fails an examination for the GB-2, GB-98, EE-98 or MM-98 classification, or if he fails the business and law examination for any classification, he may request a review of such examination and shall pay a non-refundable fee of \$25.00 for each such review.

F. If an applicant takes and fails an examination twice in any classification, he may request a special review of such examination and shall pay a non-refundable fee of \$40.00 for each such review.

G. The division is authorized to increase the fees applicable to examinations required by the state pursuant to the Construction Industries Licensing Act, NMSA 1978 Section 60-13-1, et seq., by a multiplier of up to three (3) for each classification upon the approval of such fee increases by the commission.
[14.5.5.8 NMAC - Rp, 14.5.5.8 NMAC, 7-1-04]

[14.5.5.8 NMAC - Rp, 14.5.5.8 NMAC, 7-1-04]

14.5.5.9 JOURNEYMAN AND BOILER OPERATOR FEES:

A. The electrical journeyman examination shall be \$25.00, with a renewal fee of \$25.00 per year for each classification held.

B. The mechanical journeyman examination shall be \$25.00, with a renewal fee of \$25.00 per year for each classification held.

C. The boiler operator examination shall be \$25.00, with a renewal fee of \$25.00 per year.

D. The division is authorized to increase the fees applicable to examinations required by the state pursuant to the Construction Industries Licensing Act, NMSA 1978, Section 60-13-1, et seq., by a multiplier of up to three (3) for each classification upon the approval of such fee increases by the commission.
[14.5.5.9 NMAC - Rp, 14.5.5.8 NMAC, 7-1-04]

14.5.5.10 PERMIT FEES:

A. Payment required.

All permit fees are due at the time of issuance of the permit. No permit or amended permit issued pursuant to 14.5.2 NMAC, Permits, shall be valid until all fees required by this rule have been received by CID or, when allowed by CID, the payment has been charged to a credit card.

B. Valuation. When required by CID for the purposes of determining a permit fee, the applicant for a permit shall provide such information as the building official or plan review official shall require in order to establish the total value of the project for which the permit is being sought. The information shall include the value of the labor and materials to be used on the project. If the information supplied is insufficient, or indicates that the value of the project is lower than the minimum value of the project derived by applying any schedule of costs established by CID, the permit shall be denied unless the applicant submits credible written estimates, of sufficient detail, to support the value asserted by the applicant. CID shall determine the ultimate valuation assigned to a project for purposes of establishing the permit fee.

[14.5.5.10 NMAC - Rp, 14.5.2.10 NMAC, 14.5.2.11 NMAC, 14.5.5.8 NMAC, 14.7.2.10 NMAC, 14 NMAC 9.2.I. 100, 14 NMAC 9.2.II.100, 7-1-04]

14.5.5.11 GENERAL CONSTRUCTION BUILDING PERMIT FEES:

A. The fee for a building permit shall be:

(1) \$3.00 per \$1,000.00 valuation up to \$15,000.00; and

(2) \$1.00 per \$1,000.00 valuation over \$15,000.00.

B. A fee of twenty (20) percent of the building permit fee shall be charged for review of the plans.

C. If a preliminary plan review is requested, a fee of fifty (50) percent of the combined building permit fee and review fee shall be charged for such preliminary review.

D. Breakdown of building

permit fee.

(1) Plan review, 20%.

(2) Administrative costs, 10%.

(3) Inspections, 70%.

E. For commercial construction, individual discipline plan reviews shall be assessed at five (5) percent of the building permit fee.

(1) General construction review and inspections, 5%.

(2) Accessibility review and inspections, 5%.

(3) Electrical review and inspections, 5%.

(4) Mechanical/plumbing review and inspections, 5%.

F. If a pre-bid plan review is requested, a fee of fifty (50) percent of the estimated building permit fee, based on the design profession's estimated cost of the project, shall be charged for such pre-bid review.

[14.5.5.11 NMAC - Rp, 14.5.5.8 NMAC, 7-1-04]

14.5.5.12 ELECTRICAL PERMIT FEES:

The fees in this section are used as a base for determining the total fee. The permit fee will be the sum of the individual items multiplied by 1.8 or \$48.00/hr.

A. Residential.

(1) 100 amp service or less, \$25.00

(2) Over 100 amp through 200 amp, \$ 40.00

(3) Over 200 amp through 320 amp, \$ 55.00

(4) Over 320 amp through 400 amp, \$125.00

(5) Over 400 amp, \$200.00

(6) Plan review, \$40.00/hr. or fraction thereof

B. Commercial.

(1) 100 amp service or less, \$ 25.00

(2) Over 100 amp through 200 amp, \$ 40.00

(3) Over 200 amp through 400 amp, \$125.00

(4) Over 400 amp through 600 amp, \$150.00

(5) Over 600 amp through 800 amp, \$200.00

(6) Over 800 amp through 1,000 amp, \$250.00

(7) Over 1,000 amp through 2,000 amp, \$350.00

(8) Over 2,000 amp, \$500.00

C. Other.

(1) Temporary power pole, \$15.00

(2) Mobile home service, \$15.00

(3) Customer-owned distribution (not including wiring of a structure)

(a) Minimum fee, \$25.00

(b) Plus \$3.33 x number of poles

or \$3.33 x per 100 feet of underground

(4) Service change only, no outlets, \$15.00

(5) Re-inspection fee, \$25.00

(6) Minimum inspection fee for any item not listed, \$15.00

[14.5.5.12 NMAC - Rp, 14.5.5.8 NMAC, 7-1-04]

14.5.5.13 MECHANICAL / PLUMBING PERMIT FEES:

A. Administrative fee for any inspection, \$37.50

B. Each plumbing fixture, including backflow protection therefore, \$4.00

C. Each water distribution system, \$4.00

D. Each building sewer, \$4.00

E. Each water heater, \$4.00

F. Each water conditioner, \$6.00

G. Each evaporative cooler, \$6.00

H. Each swimming pool, \$50.00

I. Each vacuum breaker or backflow device which is not an integral part of a plumbing fixture or supply pipe thereto, \$4.00

J. Each gas piping system, \$6.00

K. Each gas appliance, \$4.00

L. Each gas pipe outlet, \$4.00

M. Re-inspection, \$37.50

N. Ventilation system, \$6.00

O. Refrigeration system, \$6.00

P. Central furnace duct work, \$10.00

Q. Each domestic hot water solar heating system, \$10.00

R. Each solar space heating system, \$20.00

S. Final certificate of approval, \$7.50

T. Sewage ejector/grinder, \$4.00

U. Grease trap/interceptor, \$4.00

V. Water service line, \$4.00

W. Gas yard line, \$4.00

X. Combination unit (HVAC), \$4.00

Y. Fan coil unit, \$4.00

Z. Hot water radiant heating system, \$10.00

AA. Chilled water distribution system, \$10.00

BB. Steam and condensate

pipng system, \$10.00
CC. Roof drainage system, \$10.00
DD. Chiller, \$10.00
EE. Cooling tower, \$10.00
FF. Commercial kitchen hood, \$10.00
GG. Commercial duct system, \$10.00
HH. Medical gas system, \$10.00
 [14.5.5.13 NMAC - Rp, 14.5.5.8 NMAC, 14 NMAC 9.2.I.100, 14 NMAC 9.2.II.100, 7-1-04]

14.5.5.14 MISCELLANEOUS FEES:

A. Certificate of qualification. The fee for the issuance of a certificate of qualification shall be \$6.00, inclusive of gross receipts tax.

B. Replacement Fees.

(1) The fee for the replacement of a certificate of qualification shall be \$6.00, inclusive of gross receipts tax.

(2) The fee for the replacement of a contractor's license shall be \$6.00, inclusive of gross receipts tax.

(3) The fee for the replacement of a certificate of competence shall be \$6.00, inclusive of gross receipts tax.

(4) The fee for additional contractor's wallet cards (beyond the two initially issued) shall be \$6.00 for each such card, inclusive of gross receipts tax.

C. Photocopies. The fee for photocopies of documents shall be \$.25 per page.

D. Certified Photocopies. The fee for certified copies of documents shall be \$.50 per page.

E. Modular Approval. The fee for modular approval shall be \$5.00 per floor plan, or \$25.00, whichever is higher.

F. Manufactured Commercial Plan Review. The fee for review of plans for manufactured commercial units shall be \$50.00 for each unit.

G. Reinspections. A fee of \$25.00 for re-inspection shall be paid when an inspection is requested and the structure either fails the inspection, the structure is not ready for the inspection and/or the inspector is required to return for an inspection for any other reason.

H. Annual permit fees. The fee for an annual permit is \$25.00.

I. Homeowner permit fees. The following fees are in addition to the regular permit fees:

(1) The fee for a homeowner's permit for the construction of a new residence or for a major addition or remodel of an existing residence is \$200.00.

(2) The fee for a homeowner's

permit for construction of a lesser nature shall be calculated pursuant to 14.5.4.11 NMAC, with a minimum fee of \$25.00.

(3) A fee of \$25.00 for either an electrical or mechanical examination required in connection with electrical or mechanical work performed by a homeowner under a homeowner's permit issued pursuant to 14.5.3 NMAC, Permits.

J. Reactivation of permit. CID may assess a fee for the reactivation of a suspended permit in an amount equal to one half (1/2) the amount of the original permit fee.

[14.5.5.14 NMAC - Rp, 14.5.5.8 NMAC, 14.7.2.10 NMAC, 14 NMAC 9.2.I 100, 14 NMAC 9.2.II 100, 7-1-04]

14.5.5.15 BAD OR RETURNED CHECK FEES:

A. A charge of \$20.00 shall be made for any check that fails to clear the bank or is returned unpaid for any reason.

B. A returned check shall cause any license issued or renewed or any test scheduled as a result of such payment, to be immediately suspended until proper payment in full is received.

C. A penalty for late renewal may be assessed if a check fails to clear the bank or is returned for any reason. [14.5.5.15 NMAC - Rp, 14.5.5.8 NMAC, 7-1-04]

14.5.5.16 R E F U N D S .
 [Reserved.]

**NEW MEXICO
 REGULATION AND
 LICENSING DEPARTMENT
 CONSTRUCTION INDUSTRIES
 DIVISION**

**TITLE 14: HOUSING AND CONSTRUCTION
 CHAPTER 6: CONSTRUCTION INDUSTRIES LICENSING
 PART 6: CLASSIFICATIONS AND SCOPES**

14.6.6.1 ISSUING AGENCY: The Construction Industries Division of the Regulation and Licensing Department. [14.6.6.1 NMAC - Rp, 14.5.6.1 NMAC, 7-1-04]

14.6.6.2 SCOPE: This rule applies to individuals acting as contractors within the state of New Mexico. The license classifications listed below are offered by the construction industries division. If an individual intends to do, or is doing, work that falls within the scope of a classification provided below, in the state of New Mexico,

a license or certificate for that classification must be obtained from the construction industries division.

[14.6.6.2 NMAC - Rp, 14.5.6.2 NMAC, 7-1-04]

14.6.6.3 STATUTORY

AUTHORITY: Pursuant to Section 60-13-9.F. NMSA 1978 of the Construction Industries Licensing Act (1978), the construction industries division of the regulation and licensing department has adopted 14.5.6 NMAC Section 60-13-9.F. provides as follows: The division shall adopt all building codes and minimum standards as recommended by the trade bureaus and approved by the commission so that the public welfare is protected, uniformity is promoted and conflicting provisions are avoided;

[14.6.6.3 NMAC - Rp, 14.5.6.3 NMAC 3, 7-1-04]

14.6.6.4 DURATION:

Permanent; until later amended, repealed or replaced.

[14.6.6.4 NMAC - Rp, 14.5.6.4 NMAC, 7-1-04]

14.6.6.5 EFFECTIVE DATE:

July 1, 2004 unless a later date is cited at the end of a section.

[14.6.6.5 - Rp, 14.5.6.5 NMAC, 7-1-04]

14.6.6.6 OBJECTIVE:

The objective of 14.6.6 NMAC is to promote the general welfare of the people of New Mexico by providing for the protection of life and property through standards that, when complied with, will result in safer structures.

[14.6.6.6 NMAC - Rp, 14.5.6.6 NMAC, 7-1-04]

14.6.6.7 DEFINITIONS:

[RESERVED]

[14.6.6.7 NMAC - Rp, 14.5.6.7 NMAC, 7-1-04]

14.6.6.8 CLASSIFICATIONS AND SCOPES:

A. CLASSIFICATIONS.
 - [RESERVED]

B. GENERAL INFORMATION.

(1) The construction industry has multiple specialties. To individually identify all such specialties would require the establishment of many more classifications than set forth in these rules and regulations. Therefore, the declared policy of the division is to establish the following classifications which are most commonly used in the industry. As the need arises, the division may establish additional classifications not included herein.

(2) Contractors shall be assigned identifying symbols indicating the license classification in which the licensee is entitled to engage. Such identifying symbols shall be a series of letters and numerals.

(a) "Field" is designated by a letter and shall be the first letter of the identifying symbol, as follows: 1. General Construction shall be symbol G. 2. Electrical shall be symbol E. 3. Mechanical shall be symbol M. 4. Liquefied Petroleum Gas shall be symbol LP.

(b) "Division" is designated by a letter and shall be the second letter of the identifying symbol. (See the following list.)

(c) "Section" is designated by an Arabic numeral and follows the division designation in the identifying symbol. (See the following list.)

(d) EXAMPLE: Classification GB-2 indicates the contractor is licensed in the general construction field (G), building construction division (B), residential building section (2).

C. GENERAL CONSTRUCTION CLASSIFICATIONS.

(1) GA - ASPHALT, BITUMEN AND CONCRETE CONSTRUCTION: (Requires two years' experience.)

(a) GA-1. streets, roads and highways, including tunnels, parking lots, alleys, sealcoat and surfacing.

(b) GA-2. maintenance and repairs.

(c) GA-3. curbs, gutters and culverts.

(d) GA-4. striping.

(e) GA-5. highway signs and guard rails.

(f) GA-98. Includes all the above sections. (Requires four years' experience.)

(2) GB - BUILDING CONSTRUCTION:

(a) GB-2. residential building. (requires two years' experience.)

(b) GB-98. general building. (requires four years' experience.)

(3) GS-BUILDING SPECIALTY: (requires two years' experience)

(a) GS-29. acoustical and/or insulation, urethane foam.

(b) GS-29. awnings and canopies.

(c) GS-29. ceramic tile, marble and terrazzo.

(d) GS-4. concrete, cement, walkways and driveways.

(e) GS-29. demolition.

(f) GS-6. door installation.

(g) GS-7. drywall - installation and texture.

(h) GS-8. earthmoving, excavating and ditching.

(i) GS-9. elevators, escalators, conveyors and related machinery (other

than electrical installation).

(j) GS-29. fencing.

(k) GS-29. fixtures, cabinets and millwork.

(l) GS-29. floor covering, seamless floors, wood floors and finish.

(m) GS-13. framing.

(n) GS-29. glazing, weather stripping, storm doors and window installation.

(o) GS-29. caissons, piers and pile driving.

(p) GS-16. masonry.

(q) GS-29. ornamental iron and welding.

(r) GS-29. painting and decorating.

(s) GS-19. not used.

(t) GS-20. not used

(u) GS-21. roofing.

(v) GS-29. sandblasting.

(w) GS-29. sign construction (non-electrical).
(x) GS-24. structural steel erection.

(y) GS-25. swimming pools (non-mechanical/electrical).

(z) GS-29. vaults and depositories.

(aa) GS-27. not used.

(bb) GS-29. gunite.

(cc) GS-29. various specialties.

(dd) GS-30. plastering, stucco and lathing.

(ee) GS-29. siding.

(ff) GS-29. sheet metal.

(gg) GS-33. not used.

(hh) GS-34. concrete coring, drilling and slab sawing.

(ii) (The GB-98 license classification includes all of the above sections, except GS-29 for asbestos abatement, lead abatement, and other environmental remediation classifications

(jj) The GB-2 license classification includes all GS license classifications, except the GS-29 for asbestos abatement, lead abatement, and other environmental remediation classifications, providing the work is residential in nature.)

(4) GF - FIXED WORKS: (Requires two years' experience.)

(a) GF-1. airports.

(b) GF-2. bridges.

(c) GF-3. canals, reservoirs or irrigation systems.

(d) GF-4. drainage or flood control systems.

(e) GF-5. recreation areas.

(f) GF-6. railroad and tunnel construction.

(g) GF-7. tanks and towers.

(h) GF-8. transmission lines, tanks and substations (non-electrical).

(i) GF-9. utility lines (sewage, natural gas, water and underground tele-

phone cables).

(j) GF-98. Includes all the above sections. (requires four years' experience.)

D. ELECTRICAL LICENSE CLASSIFICATIONS.

(1) COMPREHENSIVE ELECTRICAL LICENSES:

(a) ER-1. residential wiring. Requires two years of experience.

(b) EE-98. Includes ER-1 work and all specialty electrical work, except does not include EL-1 work. Requires four years of experience.

(c) EL-1. electrical distribution systems, including transmission lines. Requires four years of experience.

(2) ELECTRICAL SPECIALTY LICENSES: (Requires two years of experience, unless otherwise specified under description of license.)

(a) ES-1. electrical signs and outline lighting.

(b) ES-2. cathodic protection, including lightning protection systems.

(c) ES-3. sound, intercommunication, electrical alarm systems, and systems 50 volts and under.

(d) ES-7. telephone communication systems and telephone interconnect systems.

(3) ELECTRICAL JOURNEYMAN CLASSIFICATIONS. (requires two years of experience.)

(a) EE-98J. Can work under the EE-98, ER-1, and all electrical specialty licenses. Cannot work under the EL-1 license. If working under a specialty license, the journeyman holding this certification classification may perform work only within the scope of the specialty license under which he is working.

(b) ER-1J. Journeyman residential wiring. Can work under EE-98 or ER-1 license.

(c) EL-1J. Journeyman electrical distribution systems, including transmission lines. Can work under the EL-1 license.

(d) ES-1J. Journeyman electrical signs and outline lighting. Can work under the EE-98 or ES-1 license.

(e) ES-2J. Journeyman cathodic protection and lightning protection systems. Can work under the EE-98 or ES-2 license.

(f) ES-3J. Journeyman sound, intercommunication, electrical alarm systems, and systems 50 volts and under. Can work under an EE-98 or ES-3 license.

(g) ES-7J. Journeyman telephone communication systems and telephone interconnect systems. Can work under an EE-98 or ES-7 license.

E. MECHANICAL CLASSIFICATIONS.

(1) MM - COMPREHENSIVE MECHANICAL LICENSES: (Requires

four years of experience.)

(a) MM-1. Plumbing.

(b) MM-2. Natural gas fitting.

(c) MM-3. Air conditioning and ventilation.

(d) MM-4. Heating, cooling and process piping.

(e) MM-98. Includes all above comprehensive mechanical licenses and specialty licenses.

(2) **MS - MECHANICAL SPECIALTY LICENSES:** (requires two years of experience, unless otherwise specified below under the description of the license.)

(a) MS-3. Cesspools, septic tanks or sewers.

(b) MS-6. Lawn sprinklers.

(c) MS-12. Fire protection sprinkler systems. Requires 4 years of experience.

(d) MS-14. Dry chemical fire protection. Requires 4 years of experience.

(3) **MECHANICAL JOURNEYMAN CLASSIFICATIONS.** (requires two years of experience.)

(a) JP. Journeyman plumber. Can work under an MM-1 or MM-98 license.

(b) JPF. Journeyman pipe fitter. Can work under an MM-1, MM-2, MM-4 or MM-98 license.

(c) JG. Journeyman natural gas fitter. Can work under an MM-1 or MM-98 license.

(d) JPG. Journeyman plumber and natural gas fitter. Can work under an MM-1, MM-2 or MM-98 license.

(e) JR. Journeyman refrigeration. Must demonstrate compliance with EPA Recovery Requirements before testing. Can work under an MM-3 or MM-98 license.

(f) JS. Journeyman sprinkler. Can work under an MM-1, MM-98 or MS-6 license.

(g) JSM. Journeyman sheet metal. Can work under an MM-3 or MM-98 license.

(h) JW. Journeyman welder. Must obtain either a JP or JG or JPG or JSM and show ASME Section 9 certification. Will not have to test separately for this certificate of competence. Can work under an MM-1, MM-2, MM-3 or MM-98 license.

(i) BO1. Journeyman boiler operator. Low pressure only.

(j) BO2. Journeyman boiler operator. Low and high pressure.

F. [RESERVED]

G. SCOPES FOR CLASSIFICATIONS.

H. GENERAL INFORMATION:

(1) A contractor under each classification is not authorized to contract beyond the scope outlined below. If any portion of the work to be undertaken is subcontracted, such work must be awarded to

and performed by a properly licensed and properly classified contractor.

(2) A contractor may bid and contract as the prime contractor of an entire project provided he holds the proper classification for the major portion of the work to be performed, based on dollar amount. This provision is subject to the allowance provided in 8.8.C below.

(3) A GB-98 contractor may bid and contract as the prime contractor of an entire project that involves work described under a general construction license classification, regardless of the percentage of work from the mechanical/plumbing and/or electrical trades. The work outside the scope the general contractor's license classification must be subcontracted to properly licensed subcontractors.

(4) **WARNING:** Some projects may require two or more license classifications.

I. GENERAL CONSTRUCTION CLASSIFICATIONS:

(1) **GA ASPHALT, BITUMEN AND CONCRETE CONSTRUCTION:** (For vehicular traffic only - does not include airborne craft.) (Requires two years' experience.)

(2) GA-1. Streets, roads and highways, including tunnels, parking lots, alleys, sealcoat and surfacing. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract to clear, align, fill, compress, compact, water, build up or remove earth and do all work necessary to prepare, within the assigned rights-of-way, the land to accept a street, road, highway, including tunnels, parking lots, alleys or driveways, including curbs, gutters, land fencing. He also is authorized to place concrete or bituminous materials, compact and smooth out and/or level surfacing or subsurfacing for such undertaking; and further, he may prepare materials for seal coating and work into the assigned project such material.

(3) GA-2. Maintenance and repair. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract all work necessary to fix, maintain, repair, patch, mend, cover, fill or replace materials of like substances to that being repaired on streets, roads, highways, parking lots, driveways and alleys. He may place seal coat and surfacing materials on such repaired areas, but may not bid or contract for complete projects as enumerated in classification GA-1.

(4) GA-3. Curbs, gutters and culverts. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for all necessary forming, placement and finishing of concrete curbs, gutters and culverts. He may also bid and contract for the placing of bitu-

minous ridge curbs for the deflection of water.

(5) GA-4. Striping. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract, but is limited to the furnishing of all necessary labor and materials to paint directional stripes on paved roads, streets, highways, alleys and parking lots. He may also furnish and install auto parking bumpers or stops and highway lane markers/reflectors. He may not bid and contract for placing of surface materials for repair and maintenance except in the striping and painting as herein above outlined.

(6) GA-5. Highway signs and guard rails. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for the furnishing of all necessary labor and materials for the erection and stabilization of signs and guard rails along highways, streets, roads and alleys, such signs being for the direction and safety of motor vehicular traffic. In the event such signs are to be electrified, this portion must be performed by a properly classified and licensed electrical contractor.

(7) GA-98. Asphalt, bitumen and concrete construction. (Requires four years' experience.)

A contractor under this classification is authorized to bid and contract for all types of work as described under classifications GA-1 through GA-5. He may bid and contract as prime contractor of any entire highway, street, road, paving district, alley or parking lot project.

(8) **GB-BUILDING CONSTRUCTION.** (Does not include any work done under GA or GF classifications.)

(9) GB-2. Residential. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for the erection, alteration, repair and demolition of homes, residences and apartment houses accommodating not in excess of four (4) family units, Groups R-1 (as limited herein) and R-3. He may also bid and contract for items included in Group M when incidental to the structures included herein. The GB-2 classification may bid and contract for work included in the GS specialties, except the GS-29 for asbestos abatement, lead abatement, and other environmental remediation classifications, providing the work is limited to residential construction as defined under this provision.

(10) GB-98. General building. (Requires four years' experience.) A contractor under this classification is authorized to bid and contract for any of the buildings, structures or projects included in the classifications GB-2, GB-98 and GS Specialties, except GS-29 for asbestos

abatement, lead abatement, and other environmental remediation classifications.

[14.6.6.8 NMAC - Rp, 14.5.6.8 NMAC, 7-1-04]

14.6.6.9 [RESERVED]

[14.6.6.9 NMAC - Rp, 14.5.6.9 NMAC, 7-1-04]

14.6.6.10 FIXED WORKS.

(Authorized to construct, alter or repair fixed works facilities, excluding any structure or building thereon.) (Requires two years' experience.)

A. GF-1. Airports. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for construction of airports, including but not limited to the alterations and repair thereof, and including marking, excavation, grading, fencing, surfacing and subsurfacing (dirt or bitumen and concrete), compaction and other work which will safely accept traffic of airborne craft for landing, take-off and taxiways. He may perform electrical lighting and signal systems work and other work incidental to the project if properly classified in these categories. He may not construct buildings or structures which are primarily for use and occupancy of the general public, including hangars. He may, however, bid on and contract for such work.

B. GF-2. Bridges. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for the erection, construction, alteration, repair and demolition of any bridge, overpass or underpass, culvert and ramp, generally used for vehicular traffic. He may not bid or contract for buildings when the primary purpose of such is for the use and occupancy of the general public.

C. GF-3. Canals, reservoirs, irrigation systems. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for the construction, erection, alteration, repair or demolition of canals, reservoirs and/or irrigation systems, including the excavation, ditching, filling, compaction and placement of precast components, waterproof membranes and liners, concrete reinforcement, abutments and buttresses in connection therewith. He may also bid and contract to install tanks, pumps, pipe lines and substations incidental to the project. He may not bid or contract for buildings when the primary purpose of such is for the use and occupancy of the general public.

D. GF-4. Drainage or flood control systems. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for construction, erection, installation, repair

and do alteration of drainage or flood control systems. He may dig, excavate, fill, prepare embankments for such purposes and perform all other work incidental to these projects. He may not bid or contract for buildings when the primary purpose of such is for the use and occupancy of the general public.

E. GF-5. Recreation areas. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract to construct, prepare, clear, repair and/or alter facilities for use as recreation areas, including but not limited to golf courses, tennis courts, playgrounds, miniature golf courses, pitch-and-putt golf courses. He may prepare the area by excavation, fill, including retainer walls, sprinkler systems, landscape, grass seed washers, rest benches, shade and rain shelters, provided such shelters shall be constructed in accordance with the New Mexico building code. He may not bid or contract for buildings when the primary purpose of such is for the use and occupancy of the general public, except as herein enumerated. He may bid and contract for the clearing, landscaping, excavation, repair and altering of recreation areas and public campgrounds, including toilet facilities and lean-tos, provided they confirm to the requirements of the New Mexico building code.

F. GF-6. Railroad and tunnel construction. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for the building and construction of railroad lines, including clearing, filling, shaping, compacting, placing rip-rap, stabilizing, setting roadbeds, ties, tie plates, rails, rail connectors, frogs, switch plates, switches, signals, signal markers and all appurtenances necessary for an operational railroad line, including bridges, culverts, tunnels, retaining walls, dikes, fences, gates, tool sheds and landing or parking platforms for equipment. This classification includes welding operations necessary for rail construction.

G. GF-7. Tanks and towers. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for the fabrication and installation of tanks that are or may be used for storage of solids or liquids, including the placement of structural members and concrete pads used for the placement of such tanks, and towers such as wind chargers, radio and microwave towers and engineered structural support systems for elevated tanks, including the fabricating and erecting of structural steel shapes and plates of any profile, perimeter or cross-section that are or may be used as structural members. This classification includes the repair, cleaning and placement of liners in tanks. It

also includes necessary cutting and welding associated with the construction of towers.

H. GF-8. Transmission lines, tanks and substations (non-electrical). (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for erection, construction and placing of lines for the transmission or conveyance of petroleum and other fluid substances, including the application of protective coatings, trenching, boring, shoring, backfilling, compacting, paving and surfacing necessary and incidental to the completion of the installation of such facilities. He may also bid and contract for such incidental buildings, tanks and substations required for the project when the primary purpose of such incidental structures is not intended for use and occupancy of the general public but necessary to the facility being installed.

I. GF-9. Utility lines (sewage, natural gas and underground telephone cables) (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for the building, construction and installation of utility lines for the transmission of sewage, natural gas, water and direct burial telephone cable, including treatment plants and facilities incidental thereto, he may install direct burial telephone cable and vaults as directed by the telephone utility. This does not include splicing, termination, installation of load pots or other activities considered under the scope of the ES-7 electrical contractor's license. This classification does not apply to overhead telephone work of any kind. He may do the excavating, trenching, grading, and backfilling, as well as performing all necessary work and installing appurtenances in connection therewith, including the laying and connecting of pipes as required for the project. Also included herewith are necessary and incidental buildings of the project. He may not bid or contract for buildings when the primary purpose thereof is for the use and occupancy of the general public.

J. GF-98. Includes all sections of GF-1 through GF-9. (Requires four years' experience.)

[14.6.6.10 NMAC - Rp, 14.5.6.10 NMAC, 7-1-04]

14.6.6.11 GS - BUILDING SPECIALTY. (Requires two years' experience) (Does not include any work done under the GA or GF classifications.)

A. GS-29. Acoustical and/or insulation, urethane foam. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work as examining surfaces, preparing acoustical layouts, selecting and installing preformed acoustical

material and installing any insulating material, including urethane foam and approved waterproof membranes and coatings, for buildings and structures for the purpose of energy conservation, temperature and sound control.

B. GS-29. Awnings and canopies. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract to cut, fit, join or combine wood, plastic, metal or fabric materials in such a manner, under agreed specifications, that they, singly or in combination, can be placed, erected, fabricated and finished on buildings and structures to serve the purpose of shade control. He may not contract for or erect any marquees.

C. GS-29. Ceramic tile, marble and terrazzo. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work as examining surfaces and specifying the preliminary and preparatory conditions necessary to bring such surfaces to a condition where, under agreed specifications, work can be performed thereon by first preparing a base or sub-base upon the existing surface and then, upon such base or sub-base, install ceramic, encaustic, faience, quarry, semi-vitreous, vitreous and other tile work, and to which prepared base or sub-base such tile will adhere by suction or is held in place by adhesives, and on such prepared base or sub-base set chips or marble, stone or other material in an irregular pattern with the use of cement lay, after properly selecting and cutting rough, cut and dressed marble, set same in pattern or in courses, with or without mortar. He may also grind and polish chips of stone or marble in such a manner that acceptable terrazzo may be executed.

D. GS-4. Concrete, cement, walkways and driveways. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work as the proportioning, batching and mixing of aggregate consisting of sand, gravel, crushed rock or other inert materials having clean uncoated grains of strong and durable minerals, cement and water or doing any part of or any combination of any thereof, in such a manner, that, under agreed specifications, acceptable mass, pavement, flat or other cement and concrete work can be poured, placed, finished and installed, including the placing of forms and form work and reinforcing material necessary for the performance of such work as herein defined, and the removal of such forms and form work. He may not install these materials in street construction.

E. GS-29. Demolition. (Requires two years' experience.) A contractor under this classification is author-

ized to bid and contract for the demolition of all or any portion of a building or structure, and such contractor is required to have the ability and knowledge of such demolition work as to permit full execution and completion of the agreed-to specifications including such demolition of portions of buildings and structures as to permit additions and alterations to such existing portions of the building and structure. He must have the knowledge and ability to maintain the premises surrounding the demolition site safe for the passing public.

F. GS-29. Door installation. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work as selecting, cutting, surfacing, joining, sticking, gluing wood and other products and materials including metal, but not including ornamental iron, in such a manner, that under agreed specifications, acceptable doors may be installed in buildings and structures, such installation to include the necessary installation of material embracing essential and acceptable door framing and the installation of hardware as is necessary to connecting, closing and locking of such doors in their fabricated and installed framework.

G. GS-7. Drywall installation and texture. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work as the installing of gypsum wallboard, gypsum sheathing, taping, bedding and coating the surfaces of the wallboard and sheathing with gypsum joint systems, tape and drywall mud, or a combination of other materials to create a permanent surface of coating. This classification includes texturing of walls and ceilings.

H. GS-8. Earthmoving, excavating and ditching. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work as digging, moving and placing material forming the surfaces of the earth other than air and water, in such a manner that a cut, fill, excavation, grading, trenching, backfilling and any similar excavating, grading and trenching operation can be executed with the use of those hand and power tools and machines that use and custom has established, or which tools and machines are now used to dig, move and place that material forming the earth's surface other than air and water, including the use of explosives in connection therewith, or doing any part, or any combination of any thereof.

I. GS-9. Elevators, escalators, conveyors and related machinery (non-electrical). (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for

such work as the erecting, installing of sheave beams, sheaves, cable and wire rope, guides, cab, counterweights, doors, including sidewalk elevators, automatic and manual controls, signal systems and all other devices, apparatus, machinery and equipment (including fabrication on job site) essential to the safe and efficient installation and operation of electrical, hydraulic and manually operated elevators, escalators and conveyors.

J. GS-29. Fencing. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work as the assembling, cutting, shaping, fabricating and installing of barbed wire, wood or metal fencing, masonry brick or block fence walls, including incidental concrete work, under an agreed specification, or doing any part of any combination thereof. This contractor is not authorized to install retaining walls.

K. GS-29. Fixtures, cabinets and millwork. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work as selecting, cutting, surfacing, joining, sticking and gluing frame wood and wood products and other materials, including metals in such a manner that, under an agreed specification, acceptable cabinets, non-bearing partitions and such other mill products as are by custom and usage accepted in the building and construction industry, as cabinet and millwork, together with all devices and fixtures appurtenant to the efficient installation and operation of such cabinets and millwork can be executed and the placing, erecting, fabricating and finishing in buildings, structures and elsewhere of such cabinet and millwork with all devices and fixtures appurtenant to the efficient installation and operation of such cabinet and millwork, or doing any part or any combination of any thereof.

L. GS-29. Floor covering, seamless floors and wood floors and finish. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work as examining surfaces and specifying the preparatory work necessary to bring such surfaces to a condition where, under an agreed specification, acceptable finished floors can be installed with the use of composition materials and fabrics and such other materials as are by custom and usage accepted in the building and construction industry as floor covering, can be executed or doing any part or combination of any thereof. He may also contract for such preliminary and preparatory work as selecting, cutting, laying, finishing and repairing wood floors and flooring, in buildings and structures previously built and currently

under construction, including the scraping, sanding, filling, staining, shellacking and waxing of such wood floors and flooring, in such a manner that wood flooring can be laid, fabricated, installed or doing any part or any combination thereof. This authorization does not include the installation of carpeting.

M. GS-13. Framing. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work as selecting, cutting, joining, combining and forming wood and wood and metal products for the framing of a structure or building, including bearing and non-bearing walls, rafters, headers, trusses, joists, studs, door and window rough frames and including any repair to any of the above.

N. GS-29. Glazing, weather stripping, storm door and window installation. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work as the selecting, cutting, assembling and installing all makes and kinds of glass work, and executing the glazing of frames, panels, sash and doors, in such a manner that, under an agreed specification, acceptable glass work and glazing can be executed, fabricated and installed but shall not include the manufacture or fabrication or installation in any building or structure of any frame, panel, sash or door, upon or within which such frame, panel, sash or door, such glass work or glazing has been executed or installed, and selecting and applying materials, devices and stripping for the internal and external control of weather conditions, or doing any part or any combination of any thereof, in such a manner that weather stripping and caulking can be executed, fabricated and installed. He may also contract for such work as selecting, cutting, surfacing, joining, sticking, gluing wood and other materials, including metal, for installation of storm doors and windows to be installed and/or attached to buildings and structures.

O. GS-29. Caissons, piers and pile driving. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work as the installation of piers, caissons and pilings through the use of pile driving equipment and machinery. He may perform necessary excavation, grading and clearing for site preparation for pile driving activities. This classification also includes the use of gases and electrical energy necessary for cutting, welding, joining and fabricating caissons or piles. He may install all necessary concrete and reinforcing steel within the caissons to create a structural member.

P. GS-16. Masonry.

(Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work as the selecting, cutting and laying of brick and other baked clay products, rough cut and dressed stone, artificial stone and pre-cast blocks, structural glass brick or block adobe, laid at random or in courses, with or without mortar, or doing any part, or any combination thereof, in such a manner that under specification, acceptable brick and other baked clay products, stone and structural glass brick or adobe block masonry can be executed, fabricated or erected, but shall not include such work as the application of the tile to existing surfaces and shall not include such work as the execution, fabrication and erecting of poured cement and concrete. This contractor may erect masonry brick or block walls including retaining walls.

Q. GS-29. Ornamental iron and welding. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work as the casting, cutting, shaping, stamping, forging, fabricating, and installing sheet, rolled and cast, brass, bronze, copper, cast iron, wrought iron, monometallic, stainless steel or any other metal, or any combination thereof, as has been and now are used in the building and construction industry for the architectural treatment and ornamental decoration of buildings and structures, in such a manner, that under an agreed specification, acceptable ornamental metal work can be executed, fabricated and installed, but such work shall not include the work of a sheet metal contractor, GS-32 as provided in these classifications. He may also bid and contract for the use of gases and electrical energy to create temperatures of sufficient heat to cause metals to become permanently affixed, attached, joined and fabricated in such a manner that welding can be executed in accordance with the New Mexico building code.

R. GS-29. Painting and decorating. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work as the examining of surfaces and specifying and executing the preliminary and preparatory work necessary to bring such surface to a condition where, under an agreed specification, acceptable work can be executed thereon with the use of any, or all, of the following: wallpaper, paints, pigments, oils, turpentine, japans, driers, thinners, varnishes, shellacs, stains, fillers, waxes and any other vehicles that may be mixed, used and applied to the surfaces of buildings, tanks, structures, monuments and appurtenances thereto, of every kind, type and description in their natural state of con-

dition, or constructed or fabricated of any material or materials whatsoever that can be painted as are by custom and usage accepted in the building and construction industry. Such contractor may also contract only for the painting portions of those items identified in the GA-4, Striping classification.

S. GS-19. Not used

T. GS-20. Not used.

U. GS-21. Roofing.

(Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work as examining surfaces and specifying the preliminary and preparatory work necessary to bring such surfaces to a condition where, under an agreed specification, acceptable work can be executed and fabricated thereon with such material or materials as do seal, waterproof and weatherproof such surfaces by such means and in such a manner as to prevent, hold, keep and stop water, its derivatives, compounds and solids from penetrating and passing any such protective material, membrane, roof, surface or seal thereby gaining access to material or space beyond such weatherproof, waterproof or watertight material, membrane, roof, surface or seal with the use of any or all of the following: asphaltum, pitch, tar, felt, flax, shakes, shingles, roof tile, slate, plastic and any other material or materials or any combination thereof, that use and custom have established as usable for, or for which material or materials are now used as, such waterproof, weatherproof or watertight seal for such membranes, roofs and surfaces, and the selection, cutting, shaping, fabricating and installing of sheet metal such as cornices, flashing, gutters, leaders, rainwater downspouts, pans, prefabricated chimneys, at or near roof lines, metal flues, or doing any part of any combination thereof, which relate to and are incidental to the principal contracting business of installing roofing.

V. GS-29. Sandblasting. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work as examining surfaces and preparing such surfaces, on the exterior of buildings and structures, for the application by hand or with energy generated by mechanical devices, of sand, air and forms of mixed abrasives for the purpose of cleansing exterior surfaces of a building or structure. He may also do sandblasting to remove existing exterior paint or other coatings.

W. GS-29. Sign construction (non-electrical). (Requires two years' experience.) A contractor under this classification is authorized to bid on and contract for such work as fabrication, installing and erecting signs of wood, steel, plastic or any material, or any combination of materials,

which signs shall be embedded in the earth, in concrete or other satisfactory base material, or attached to buildings or structures and supported against forces of wind, rain and other natural elements through its own structure or attached cables, bars or similar devices and appurtenances. Electrified signs may be installed by contractors holding ES-1 without being classified hereunder. Any electrical work must be performed by properly classified and licensed contractors.

X. GS-24. Structural steel erection. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work as fabricating and erecting structural steel shapes and plates, or any profile, perimeter or cross-section, that are or may be used as structural members for buildings and structures, including riveting, welding and rigging only in connection therewith, in such a manner that structural steel work can be fabricated and erected; and using gases and electrical energy to create temperatures of sufficient heat to cause metals to become permanently affixed, attached, joined and fabricated.

Y. GS-25. Swimming pools (non-mechanical/electrical). (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work which requires that ability, experience, knowledge and skill in connection with the use of those building and construction industry trades, crafts or skills necessary to the preparation of the surface intended for the construction of a swimming pool. A licensee under this classification shall not perform any trade or craft which is authorized by any one, or a combination of, classifications as provided in the Mechanical construction classifications, Electrical construction classifications, or LP Gas classifications.

Z. GS-29. Vaults and depositories. (Requires two years' experience.) A contractor under this classification is authorized to bid on and contract for such work as setting in place in buildings or structures safes, vaults and depositories of any size, shape or form or for any use, fabricated with wood, steel, concrete or any other material or materials or combination thereof, and the examining and preparation of those areas and specific sections of buildings and structures to house such safes, vaults, depositories, including mobile depositories affixed to buildings or like devices intended for the safekeeping of tangible personal properties of any type. This classification shall authorize the construction, erection or installation of buildings or vaults to be used for the purpose of interring deceased persons.

AA. GS-27. Not used.

BB. GS-29. Guniting. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work which requires that ability, experience, knowledge and skill in connection with the installation of guniting in areas which include, but are not limited to, swimming pools, canals, reservoirs, bank stabilization and open ditch irrigation systems. A licensee under this classification shall not perform any trade or craft which is authorized by any one or combination of classifications as provided by the mechanical or electrical classifications.

CC. GS-29. Various specialties. (Requires two years' experience.) The construction industry has multiple specialties. To individually identify all such specialties would require the establishment of many more classifications than set forth in these rules and regulations. Therefore, the declared policy of the division is to establish the classifications most common in the industry. All of these various GS specialties carry this same classification.

DD. GS-30. Plastering, stucco and lathing. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for preparing wall and ceiling surfaces, interior or exterior, with wood, metal lath, wall-board or other properly prepared surfaces which will accept and hold a mixture of sand, plaster (including gypsum plaster), lime and water, or sand and cement with water or any combination of materials to create a permanent surface coating. These coatings may be applied manually or mechanically on surfaces which will support such coating. He may install steel stud systems (non-structural), channel iron work and affix lath or any other materials or products, prepared or manufactured to provide a base for such coatings.

EE. GS-29. Siding. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for the application of materials known in the building trades as siding or surfacing. These materials generally consist of slate, gypsum, wood plastics and many other products. They must be applied in accordance with the manufacturer's specifications and when necessary, on a furred-up grill or network. An example, wood or plaster. This does not include installation of or painting of trim areas such as doors and/or windows.

FF. GS-29. Miscellaneous sheet metal. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract to select, cut, shape, fabricate and install sheet metal (galvanized iron) such as cornices, flashing, gutters, leaders, rainwater downspouts,

pans, prefabricated chimneys, hoods, skylights and metal flues, etc., or to do any part of or any combination thereof, in such a manner that the sheet metal work can be executed, fabricated and installed. Further, it is understood that this contractor shall not install HVAC duct systems, vents, grease hoods, or other appurtenances which require a mechanical permit and inspections as per the uniform mechanical code. Heat ductwork and refrigeration ductwork are not included in this classification.

GG. GS-33. Not used.

HH. GS-29. Concrete coring, drilling and slab sawing. (Requires two years' experience.) A contractor under this classification is authorized to bid and contract for such work as coring, boring, drilling, cutting and sawing concrete, including the removal or demolition of the material. He may not contract for the installation of wiring or plumbing in such bored, drilled, cut or sawed concrete.

[14.6.6.11 NMAC - Rp, 14.5.6.11 NMAC, 7-1-04]

14.6.6.12 GENERAL ELECTRICAL LICENSE INFORMATION:

A. Journeyman certificate of competence required: A journeyman certificate of competence in the proper trade classification for the work being performed is required of all individuals performing electrical work, except where an apprentice is working under the supervision of a properly licensed and certified contractor or certified journeyman. Journeyman certifications shall be issued such that the certificates parallel the electrical license classification numbers and scopes.

B. Conduit installation: All conduit installations within, or on, buildings shall be performed by a contractor holding a EE-98 license, except where ER-1 licensees and journeymen are installing conduit that is incidental to residential wiring. Specialty electrical license holders (ES-1, 2, 3, and/or 7) shall not install conduit within, or on, buildings.

C. Implementation of new license classifications; renewal of existing license classifications.

(1) The electrical license and journeyman certificate of competence classifications specified immediately below become effective on November 1, 1998. All licenses and certificates of competence tested for on, or after, November 1, 1998 will be issued pursuant to the classifications set forth below.

(2) All licenses and journeyman certificates of competence tested for and/or issued prior to November 1, 1998 under the prior license and journeyman classifications will be renewed under the prior classifications until the license or certificate of com-

petence ceases to exist. However, if a licensee or journeyman fails to renew his license or certificate of competence in a timely manner as required in the Construction Industries Licensing Act and the construction industries division rules and regulations, or otherwise allows his license or certificate of competence to lapse, be voided and/or canceled, the licensee and/or journeyman will be required to obtain the proper license under the new classification system becoming effective on November 1, 1998. Obtaining the proper license and/or journeyman certificate of competence under the new classification system in these circumstances will require that the licensee and/or journeyman take the appropriate examination and make application to the division.

D. Electrical contracting defined: The definition of contracting is set forth in Section 60-13-3 of the Construction Industries Licensing Act. Nothing in this rule shall be construed to conflict with the Act's definition. However, for the purposes of clarity in this rule, contracting is understood to include: installations, alterations, repairs, servicing and maintenance involving electrical work.

E. Electrical customer-owned distribution system electrical customer-owned distribution systems are subject to all adopted codes, standards, and regulations. Customer-owned distribution systems include all (non-utility owned or operated) overhead or underground primary or secondary voltage electrical power line construction, installation, alteration, repairs, or maintenance.

F. Continuing education:

(1) Pursuant to the Construction Industries Licensing Act, New Mexico Statutes Annotated, Section 60-13-38F, there is created a continuing education requirement as a condition for renewal or reinstatement of a journeyman electrician certificate of competence.

(2) Prior to renewal of a journeyman electrician certificate of competence, or reinstatement of such a certificate after revocation, the journeyman certificate holder is required to complete sixteen (16) hours of approved course work.

(3) A minimum of eight (8) hours shall comprise instruction on changes in the currently adopted New Mexico electrical code and national electrical code since the date on which the certificate to be renewed or reinstated was issued, last renewed or reinstated.

(4) Course sponsor(s) must submit to the construction industries division an application for course and instructor approval, on a form approved by the division, and must be approved by the commission before the course will qualify as

approved course work under this section.

(5) Application for course approval must be received by the division no later than four (4) months before the date on which the course is to begin

(6) Complete and legible course and instructor approval applications will be reviewed by the electrical bureau chief and the technical advisory council to the electrical bureau no less frequently than once a month. Incomplete or illegible applications will not be considered and shall be returned to the submitter without approval or denial.

(7) The electrical bureau chief and technical advisory council shall report to the construction industries commission at each commission meeting its recommendation for approval or denial on each complete application submitted for approval.

(8) The construction industries commission shall receive and consider the recommendations of the electrical bureau chief and the technical advisory council before voting on whether to approve or deny any approval application; provided, however, that the construction industries commission may appoint a sub-committee to which it delegates the authority to approve or deny any approval application. If a sub-committee is appointed, it shall receive and consider any recommendation made by the electrical bureau chief and the technical advisory council, and approve or deny approval applications accordingly, no less often than once every two (2) months.

(9) Course approval shall be effective for a period of three (3) years from the date of approval, unless the course is not offered for twenty-four (24) consecutive months. Instructor approval shall be effective for a period of three (3) years from the date of approval.

(10) At the expiration of the approval period, the course or instructor will automatically cease to be approved, without further notice from the division. Any application for re-approval must be received no less than four (4) months prior to the date on which the approval period expires in order to avoid a lapse in approval.

(11) The decision of the commission, or its designated sub-committee, regarding the approval or denial of an application is final and is not subject to review.

(12) To qualify as approved course work, continuing education courses must comply with the following standards:

(a) the course content must be relevant to the electrical trade and consistent with the laws and rules of the state of New Mexico;

(b) the course may be conducted in a classroom, seminar or in a home study format;

(c) the course must be taught by an approved instructor.

(13) To be approved an instructor must either be currently teaching or have taught at least one course related to the electrical trade within the preceding two (2) years in one of the following programs:

(a) an electrical program that is approved by the vocational education division of the state of New Mexico department of public education and offered in the curriculum of a New Mexico trade school, college or university;

(b) a program, the objectives of which relate to the electrical trade, that is offered through a professional association or organization representing licensed electricians;

(c) an apprenticeship program approved by the state of New Mexico apprenticeship council or the bureau of apprenticeship and training;

(d) a program offered by a nationally recognized testing laboratory, or product manufacturer and the instructor has at least (5) years practical experience in the subject taught;

(e) an organization that provides electrical continuing education unit courses, and the instructor has at least five (5) years of practical experience in the subject taught;

(f) construction industries division electrical bureau code education program.

(14) For each journeyman certificate holder who successfully completes an approved course, the instructor is required to submit to the construction industries division the following:

(a) the name of the certificate holder;

(b) his/her address;

(c) and journeyman certificate number within thirty (3) days of course completion.

G. GENERAL ELECTRICAL LICENSE CLASSIFICATIONS:

(1) EE-98. Residential and commercial electrical. (Requires four years experience.) A contractor under this classification is authorized to bid and contract for all electrical work, including work identified in less comprehensive electrical classifications, including premises, wiring underground distribution trenching, duct work, cables and terminations 600 volts and under, with the exception of additional work identified under the EL-1 classification. He may bid and contract as the prime contractor of an entire project provided the electrical contractor's portion of the contract, based on dollar amount, is the major portion of the contract.

(2) ER-1. Residential electrical wiring. (Requires two years experience.) A contractor under this classification is authorized to bid and contract for electrical

systems for residential dwelling units and multi-family dwellings when all such units are all on the ground floor with no occupancies above or below as defined by the New Mexico electrical code. This contractor shall not install wiring for commercial use, such as motels, hotels and similar occupancies. He shall not undertake to contract for more than four (4) multi-family units in any one single project.

(3) EL-1. Electrical distribution systems, including transmission lines. (Requires four years experience.) A contractor under this classification is authorized to bid and contract for overhead or underground electrical distribution and transmission lines and associated towers, tower foundations and/or other supporting structures, trenching and ductwork and substations and terminal facilities. (Interior wiring of buildings housing any of the above equipment shall require an EE-98 license).

(4) [RESERVED]

H. ELECTRICAL SPECIALTY LICENSES:

(1) ES-1. Electrical signs and outline lighting. (Requires two years experience.)

A contractor under this classification is authorized to bid and contract for electrical signs and outline lighting. He is authorized to bid and contract for electrical wiring to connect signs installed by him where a "sign circuit" has been provided within ten (10) feet. He is also authorized to bid and contract for concrete for the foundation of poles and build structures for the support of such signs. Outline lighting is an arrangement of incandescent lamps or gaseous tubes to outline and call attention to certain features such as the shape of a building or the decoration of a window and may or may not contribute to the general illumination of an area.

(2) ES-2. Cathodic protection and lightning protection systems. (Requires two years experience.) A contractor under this classification is authorized to bid and contract for electrically activated systems to prevent galvanic damage to metallic pipelines or structures, usually underground. He is also authorized to bid and contract for the electrical work involved in the equipment for connection rectifier systems. He is also authorized to bid and contract for lightning protection systems. He is not authorized to install the service riser, main service or service grounding.

(3) ES-3. Low voltage special systems (under 50 volts). (Requires two years experience.)

A contractor under this classification is authorized to bid and contract for public address or other sound, voice communication systems normally involving low energy

signal circuits. Also, electrical burglar and fire alarm systems, computer data systems, and cable TV systems normally involving coaxial cable for the purpose of transmitting R.F. signals and other intelligence by wire and cable. This classification also includes other low voltage specialty systems such as, but not limited to, door and gate operated control circuits, and temperature control circuits. The installer of a TVRO (dish) will not be required to have a contractor's license when such installations are installed in single family dwellings and do not require the use of 120 volts for tracking.

(4) ES-7. Telephone communication systems. (Requires two years' experience.)

A contractor under this classification is authorized to bid and contract for in-plant and out-plant telephone systems, telephone interconnections in public or privately owned buildings, and underground cables or aerial supporting structures, trenching, duct work, terminal facilities, repeaters, including the installation of instruments at their terminating locations. (Interior wiring of building housing any of the above equipment shall require an EE-98 classification.) **Note:** Refer to GF-9 classification for additional underground telephone cable installations. This classification does not include conduit installation.

[14.6.6.12 NMAC - Rp, 14.5.6.12 NMAC, 7-1-04]

14.6.6.13 [RESERVED]

[14.6.6.13 NMAC - Rp, 14.5.6.13 NMAC, 7-1-04]

14.6.6.14 GENERAL MECHANICAL AND PLUMBING LICENSE INFORMATION:

A. Journeyman certificate of competence required:

A journeyman certificate of competence in the proper trade classification for the work being performed is required of all individuals performing mechanical and/or plumbing work. Journeyman certifications shall be issued such that the certificates parallel the mechanical and plumbing license classification numbers and scopes.

B. Implementation of new license classifications; renewal of existing license classifications:

(1) The mechanical and plumbing license and journeyman certificate of competence classifications specified immediately below become effective on November 1, 1998. Thus, all licenses and certificates of competence tested for on or after, November 1, 1998 will be issued pursuant to the classifications set forth below.

(2) All licenses and journeyman certificate of competence tested for and/or issued prior to November 1, 1998 under the

prior license and journeyman classifications will be issued under the renewed under the prior classifications until the license or certificate of competence ceases to exist. However, if a licensee or journeyman fails to renew his license or certificate of competence in a timely manner as required in the Construction Industries Licensing Act or the construction industries division rules and regulations, or otherwise allows his license or certificate of competence to lapse, be voided and/or canceled, the licensee and/or journeyman will be required to obtain the proper license under the new classification system becoming effective on November 1, 1998. Obtaining the proper license and/or journeyman certificate of competence under the new license classification system in these circumstances will require that the licensee and/or journeyman take the appropriate examination and make application to the division.

C. Mechanical and plumbing contracting defined:

The definition of contracting is set forth in Section 60-13-3 of the Construction Industries Licensing Act. Nothing in this rule shall be construed to conflict with the Act's definition. However, for the purpose of clarity in this rule, contracting is understood to include: installations, alterations, repairs, servicing and maintenance involving plumbing and/or mechanical work.

D. [RESERVED]

E. GENERAL MECHANICAL AND PLUMBING LICENSE CLASSIFICATIONS:

(1) MM-1. Plumbing. (Requires four years experience.)

A contractor under this classification is authorized to install, alter, repair or service plumbing, fixtures and water conditioners as defined under Section 60-13-32 B, C and E of the Act. He may perform piping which carries fuel, oil, gasoline in the service station installation. Also, he may perform all piping associated with solar water heating and cooling systems. The following are some sample types of work included under this classification (this list is for illustrative purpose, and is not exhaustive): 1. plumbing, fixtures and water conditioners, as defined under Section 60-13-32 (B)(C) and (E) of the Construction Industries Licensing Act; hot water heating systems not exceeding 30 p.s.i.; fixture and softener installations, and accessories; piping associated with solar water heating and cooling systems; contractor may not perform natural gas fitting except as described in the subsection below; 2. cesspools, septic tanks, manholes and sewer lines, starting at a point of five (5) feet beyond the outside wall of a building, including excavating, trenching, backfilling and grading necessary to make the authorized installation. 3. lawn sprin-

klers which are connected to a potable water supply, including necessary excavation and backfilling, the plug-in type electrical control panels and apparatus, and control wiring up to 24 volts; 4. piping, fixtures or equipment which is an integral part of swimming pool filters or heating systems (water side only); drain piping to an approved sand trap; make up water piping of potable water line; does not include installation of natural gas fired appliances or natural gas piping; 5. piping, fittings and equipment for the treatment of water, including necessary concrete supports for water and conditioning systems, plug-in electrical control panels and apparatus up to 24 volts necessary for the operation of the water conditioning system; 6. indirect waste piping to the point of disposal; and 7. pneumatic systems and electrical control wiring up to 24 volts, provided all electrical work over 24 volts shall be installed by a properly licensed electrical contractor, and pneumatic tube systems.

(2) MM-2. Natural gas fitting. (Requires four years experience.)

A contractor under this classification is authorized to install, alter, repair or service natural gas fittings as defined in Section 60-13-32.D. of the Act. He may install hot water heating systems not exceeding 30 p.s.i. working pressure or 400,000 b.t.u./hour input. NOTE: This classification does not allow the installation of LP Gas systems.

The following are some sample types of work included under this classification (this list is for illustrative purpose, and is not exhaustive): 1. natural gas fitting and consumer natural gas piping downstream of the gas meter or property line; 2. warm air heating appliances; 3. freestanding gas appliances and built-in ranges and ovens, including all venting and existing valved outlets. 4. steam and hot water boilers, including chimney connections, flues, refractories, burners, fittings, valves, thermal insulation, controls, accessories and incidental piping, and natural gas piping from the main boiler cutoff to the burner; and 5. pneumatic control systems and electrical wiring up to 24 volts, provided all electrical work over 24 volts shall be installed by a properly licensed electrical contractor, and pneumatic tube systems. 6. contractor may bid and contract for a complete boiler installation, provided all electrical work over 24 volts shall be installed by a properly licensed electrical contractor.

(3) MM-3. Heating, ventilation & air conditioning (HVAC). (Requires four years experience.)

A contractor under this classification is authorized to install, alter, repair or service HVAC air handling and refrigeration cycle, consisting of and including fans, coils,

evaporative cooling units, self-contained packaged air conditioning and/or heating units, air handling units, condensing units, duct work and accessories, including solar air heating and cooled mechanical air handling and ventilation applications. He is not authorized to perform piping, other than refrigerant piping, except as allowed below. The following are some sample types of work included under this classification (this list is for illustrative purpose, and is not exhaustive): 1. evaporative coolers, including circulating pumps, controls, control wiring up to 24 volts and duct work for the evaporative cooler installations, and connecting water to existing valved outlets; Structural work and electrical work not specifically described herein must be performed by properly licensed contractors, however this work may be included in the bid or contract of the evaporative cooler contractor if incidental to the evaporative cooler installation; and 2. pneumatic control systems or electrical wiring up to 24 volts, provided all electrical work and control systems over 24 volts shall be installed by a properly licensed electrical contractor, and pneumatic tube systems.

(4) MM-4. Heating, cooling and process piping. (Requires four years experience.)

A contractor under this classification is authorized to install, alter, repair or service hydronic heating, cooling and process piping consisting of and including steam hot water systems of any temperature pressure range, chilled water systems, condensing water systems and process piping systems, including pressure vessels, heat exchangers, boilers, refrigeration water chillers, cooling towers, fuel oil tanks and fuel oil piping. He may install natural gas piping from the main boiler cut-off to the burner. He may install high pressure and process piping solar energy systems and components of any temperature or any pressure conveying gas or fluids other than potable water.

In addition to the above, the contractor under this classification is authorized to install pneumatic or electric controls and control wiring up to 24 volts, provided electrical wiring over 24 volts shall be installed by a properly licensed electrical contractor, and pneumatic tube systems.

(5) MM-98. Mechanical. (Requires four years experience.)

A contractor under this classification is authorized to perform all work described under MM-1, 2, 3 and 4, and all specialty mechanical licenses. He may bid and contract as the prime contractor of an entire project provided the mechanical contractor's part of the project, based on dollar amounts, is the major portion of the contract and further provided that all subcontracted work is awarded to and performed by prop-

erly licensed and classified contractors.

F. MECHANICAL AND PLUMBING SPECIALTY LICENSES:

(1) MS-3. Cesspools, septic tanks & sewer. (Requires two years experience.)

A contractor under this classification is authorized to install, alter, repair or service cesspools, septic tanks, manholes and sewer lines, starting at a point five (5) feet beyond the outside wall of a building. He may excavate, trench, backfill and grade as necessary for the authorized installation. He shall not represent himself as a plumbing contractor. A contractor under this classification may install or repair plug-in type electrical control panels and apparatus and may install control wiring up to 24 volts.

(2) MS-6. Lawn sprinklers. (Requires two years experience.)

A contractor under this classification is authorized to install, alter, repair or service sprinkler systems which are connected to a potable water supply. He may excavate and backfill as necessary for proper installation of the system. A contractor under this classification may install or repair plug-in type electrical control panels and apparatus and may install control wiring up to 24 volts.

(3) MS-12. Fire protection sprinkler systems. (Requires four years experience.)

A contractor under this classification is authorized to install, alter, repair or service fire protection systems using water, including any pressure or storage tanks required, including control wiring of 24 volts or less. He may excavate and backfill and install piping from structure to off-premise water supply adjacent to property involving a fire protection system. He may bid or contract structural alterations, painting, electrical wiring, etc., incidental to the system installation, provided such work is performed by a properly licensed contractor.

(4) MS-14. Dry chemical fire protection. (Requires four years experience.)

A contractor under this classification is authorized to install, alter, repair or service fire protection systems using gas or chemical, including CO, halon, etc. Included are pressurized storage tanks, valves, appurtenances, temperature sensing devices and other incidental control wiring of 24 volts or less. This contractor is not authorized to install solenoid or shut-off valve devices in any natural or LP gas supply piping. He may bid or contract for only the complete dry chemical fire suppression system including the mounting of tanks and securing of piping arrangements. Any architectural or structural work shall be done by properly licensed contractors.

[14.6.6.14 NMAC - Rp, 14.5.6.14 NMAC, 7-1-04]

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 7 BUILDING CODES
GENERAL
PART 2 2003 NEW MEXICO
COMMERCIAL BUILDING CODE**

14.7.2.1 ISSUING AGENCY:
Construction Industries Division (CID) of
the Regulation and Licensing Department.
[14.7.2.1 NMAC - Rp, 14.7.2.1 NMAC, 7-
1-04]

14.7.2.2 SCOPE: This rule
applies to the construction, alteration, relo-
cation, enlargement, replacement, repair,
equipment, use and occupancy, location,
removal and demolition of every building or
structure or any appurtenances connected or
attached to such building or structure per-
formed in New Mexico on or after July 1,
2004, that is subject to the jurisdiction of
CID, unless performed pursuant to a permit
for which an application was received by
CID before that date.

A. Exception 1. Detached
one- and two-family dwellings and multiple
single-family dwellings (town houses) not
more than three (3) stories high with sepa-
rate means of egress, and their accessory
structures shall comply with the 14.7.3
NMAC, 2003 New Mexico residential
building code (NMRBC).

B. Exception 2. Existing
buildings, not subject to the NMRBC,
undergoing a change of occupancy, repair,
alterations or additions shall comply with
either 14.7.2 NMAC, 2003 New Mexico
commercial building code, or 14.7.7
NMAC, 2003 New Mexico existing build-
ing code, as applicable.

[14.7.2.2 NMAC - Rp, 14.7.2.2 NMAC, 7-
1-04]

**14.7.2.3 STATUTORY
AUTHORITY:** NMSA 1978 Sections 60-
13-9 and 60-13-44.

[14.7.2.3 NMAC - Rp, 14.7.2.3 NMAC, 7-
1-04]

14.7.2.4 DURATION:
Permanent.

[14.7.2.4 NMAC - Rp, 14.7.2.4 NMAC, 7-
1-04]

14.7.2.5 EFFECTIVE DATE:
July 1, 2004, unless a later date is cited at
the end of a section.

[14.7.2.5 NMAC - Rp, 14.7.2.5 NMAC, 7-
1-04]

14.7.2.6 OBJECTIVE: The
purpose of this rule is to establish minimum
standards for the general construction of
commercial buildings in New Mexico.

[14.7.2.6 NMAC - Rp, 14.7.2.6 NMAC, 7-
1-04]

14.7.2.7 DEFINITIONS:
[See 14.5.1 NMAC, General Provisions and
chapter 2 of the 2003 international building
code (IBC) as amended in 14.7.2.10
NMAC.]

[14.7.2.7 NMAC - Rp, 14.7.2.10 NMAC, 7-
1-04]

**14.7.2.8 ADOPTION OF THE
2003 INTERNATIONAL BUILDING
CODE:**

A. This rule adopts by ref-
erence the 2003 international building code,
as amended by this rule.

B. In this rule, each provi-
sion is numbered to correspond with the
numbering of the 2003 international build-
ing code.

[14.7.2.8 NMAC - Rp, 14.7.2.9 NMAC &
14.7.3 NMAC, 7-1-04]

**14.7.2.9 CHAPTER 1
ADMINISTRATION:**

A. Section 101 - General.
(1) 101.1 Title. Delete this sec-
tion of the IBC and substitute: This code
shall be known as the 2003 New Mexico
commercial building code (NMCBC).

(2) 101.2 Scope. Delete this sec-
tion of the IBC and see 14.7.2.2 NMAC,
Scope.

(3) 101.2.1 Appendices. This
rule adopts the following appendices as
amended herein:

(a) Appendix C - group U- agri-
cultural buildings;

(b) Appendix E - supplementary
accessibility requirements; and

(c) Appendix J - grading.

(4) 101.3 Intent. Delete this sec-
tion of the IBC and see the scope section
above, at 14.7.2.6 NMAC, Objective.

(5) 101.4 Referenced codes.
The codes referenced in the NMCBC are:

(a) 101.4.1 Electrical. Delete
this section of the IBC and substitute: The
2002 New Mexico electrical code (NMEC)
applies to all electrical wiring as defined in
CILA Section 60-13-32. All references in
the IBC to the ICC electrical code are
deemed references to the NMEC.

(b) 101.4.2 Gas. Delete this sec-
tion of the IBC and substitute: The 2003
New Mexico mechanical code (NMMC)
applies to "gas fittings" as that term is
defined in CILA Section 60-13-32. All ref-

erences in the IBC to the international fuel
gas code are deemed references to the
NMMC or the LPG standards, 19.15.40
NMAC and NMSA 1978 70-5-1 et seq., col-
lectively. Gas piping, systems and appli-
ances for use with liquefied propane gas
(LPG), or compressed natural gas (CNG),
shall be governed by the LPG standards.

(c) 101.4.3 Mechanical. Delete
this section of the IBC and substitute: The
NMMC applies to the installation, repair
and replacement of mechanical systems
including equipment, appliances, fixtures,
fittings and/or appurtenances including ven-
tilating, heating, cooling, air conditioning
and refrigeration systems, incinerators and
other energy related systems. All references
in the IBC to the international mechanical
code are deemed references to the NMMC.

(d) 101.4.4 Plumbing. Delete
this section of the IBC and substitute: The
2003 New Mexico plumbing code (NMPC)
applies to the installation, alterations,
repairs and replacement of plumbing sys-
tems, including equipment, appliances, fix-
tures, fittings and appurtenances, and where
connected to a water or sewage system and
all aspects of a medical gas system. All ref-
erences in the IBC to the international
plumbing code are deemed references to the
NMPC.

**(e) 101.4.5 Property mainte-
nance.** Delete this section of the IBC.

(f) 101.4.6 Fire prevention.
Delete this section of the IBC.

(g) 101.4.7 Energy. Delete this
section of the IBC and substitute: The pro-
visions of the 2003 New Mexico energy
conservation code (NMECC) shall apply to
the energy conservation aspects of general
commercial construction.

**B. Section 102 -
Applicability.**

(1) Section 102.1 General.
Delete this section of the IBC and see 14.5.1
NMAC, General Provisions.

(2) Section 102.2 Other laws.
Delete this section of the IBC and see 14.5.1
NMAC, General Provisions.

**(3) Section 102.3 Application of
references.** Delete this section of the IBC
and see 14.5.1 NMAC, General Provisions.

**(4) Section 102.4 Referenced
codes and standards.** Delete this section of
the IBC and see 14.5.1 NMAC, General
Provisions.

**(5) Section 102.5 Partial inva-
lidity.** Delete this section of the IBC and see
14.5.1 NMAC, General Provisions.

**(6) Section 102.6 Existing struc-
tures.** Delete this section of the IBC and
substitute: The legal occupancy of any
structure existing on the effective date of
this rule shall be permitted to continue with-
out change, except as is specifically provid-
ed otherwise in this rule, in the 2003 New

Mexico existing building code, or by the building official in consideration of the general safety and welfare of the occupants of any such building and the general public.

C. Section 103 - Department of building safety. Delete this section of the IBC.

D. Section 104 - Duties and powers of building official. Delete this section of the IBC and see 14.5.1 NMAC, General Provisions.

E. Section 105 - Permits. Delete this section of the IBC except as provided in 14.5.2 NMAC, Permits.

F. Section 106 - Construction documents. Delete this section of the IBC except as provided in 14.5.2 NMAC, Permits.

G. Section 107 - Temporary structures and uses. Delete this section of the IBC and see 14.5.2 NMAC, Permits.

H. Section 108 - Fees. Delete this section of the IBC and see 14.5.5 NMAC, Fees.

I. Section 109 - Inspections.

(1) 109.1 General. Delete this section of the IBC except as provided in 14.5.3 NMAC, Inspections.

(2) 109.2 Preliminary inspection. Delete this section of the IBC except as provided in 14.5.2 NMAC, Permits.

(3) 109.3 Required inspections. Delete this section of the IBC except as provided in 14.5.3. NMAC, Inspections.

(4) 109.4 Inspection agencies. Delete this section of the IBC and see 14.5.3 NMAC, Inspections.

(5) 109.5 Inspection requests. Delete this section of the IBC except as provided in 14.5.3 NMAC, Inspections.

(6) 109.6 Approval required. Delete this section of the IBC except as provided 14.5.3 NMAC, Inspections.

J. Section 110 - Certificate of Occupancy. Delete this section of the IBC and see 14.5.2 NMAC, Permits.

K. Section 111 - Service Utilities. Delete this section of the IBC and see 14.5.2 NMAC, Permits.

L. Section 112 - Board of Appeals. Delete this section of the IBC and see 14.5.1 NMAC, General Provisions.

M. Section 113 - Violations. Delete this section of the IBC and see 14.5.3 NMAC, Inspections.

N. Section 114 - Stop Work Order. Delete this section of the IBC and see 14.5.3 NMAC, Inspections.

O. Section 115 - Unsafe Structures and Equipment. Delete this section of the IBC and see 14.5.1 NMAC, General Provisions.

[14.7.2.9 NMAC - Rp, 14.7.2.10 NMAC, 7-

1-04]

14.7.2.10 CHAPTER 2 DEFINITIONS: See this section of the IBC except as provided below.

A. Section 201.1 Scope. See this section of the IBC except add the following: If the same term is defined in the New Mexico construction codes and in the IBC, it shall have the meaning given it in the New Mexico construction codes.

B. Section 201.3 Terms defined in other codes. Delete this section of the IBC and substitute: If a term is not defined in this code and is defined in a New Mexico construction code, the term shall have the meaning given it in the New Mexico construction code.
[14.7.2.10 NMAC - Rp, 14.7.2.7 NMAC, 7-1-04]

14.7.2.11 CHAPTER 3 USE AND OCCUPANCY CLASSIFICATION: See this chapter of the IBC with the following exception: Section 304.1 is amended to add fire and police stations to the business -"B" occupancy group.
[14.7.2.11 NMAC - Rp, 14.7.2.12 NMAC, 7-1-04]

14.7.2.12 CHAPTER 4 SPECIAL DETAILED REQUIREMENTS BASED ON USE AND OCCUPANCY: See this chapter of the IBC with the following exception: Section 404.1.1, the definition of the term "ATRIUM," is amended to substitute the words "floor levels" for the word "stories."
[14.7.2.12 NMAC - Rp, 14.7.2.13 NMAC, 7-1-04]

14.7.2.13 CHAPTER 5 GENERAL HEIGHTS AND BUILDING AREAS: See this chapter of the IBC with the following exception: Section 507.5 is amended to delete the reference to "Type I" construction.
[14.7.2.13 NMAC - Rp, 14.7.2.14 NMAC, 7-1-04]

14.7.2.14 CHAPTER 6 TYPES OF CONSTRUCTION: See this chapter of the IBC.
[14.7.2.14 NMAC - Rp, 14.7.2.15 NMAC, 7-1-04]

14.7.2.15 CHAPTER 7 FIRE-RESISTANCE-RATED CONSTRUCTION: See this chapter of the IBC with the following exception: Section 702 is amended to change the definition of "shaft" by deleting the reference to "stories" and substituting the words "floor levels."
[14.7.2.15 NMAC - Rp, 14.7.2.16 NMAC, 7-1-04]

14.7.2.16 CHAPTER 8 INTERIOR FINISHES: See this chapter of the IBC.

[14.7.2.16 NMAC - Rp, 14.7.2.17, NMAC, 7-1-04]

14.7.2.17 CHAPTER 9 FIRE PROTECTION SYSTEMS:

A. Section 901 - General. See this section of the IBC.

B. Section 902 - Definitions. See this section of the IBC with the following exception: The definition of "sandpipe system, classes of" is amended by adding the following provision: 1.5-inch hoses and hose cabinets shall not be provided, unless required by the New Mexico laws applicable to fire protection FOR class II and class III sandpipe systems.

C. Section 903 - Automatic sprinkler systems. See this section of the except in section 903.2 delete the paragraph entitled "exception" in its entirety.

D. Section 904 - Alternative automatic fire-extinguishing systems. See this section of the IBC except in section 904.11 delete the paragraph entitled "exception" in its entirety.

E. Sections 905 through 908. See these sections of the IBC.

F. Section 909 - Smoke control systems.

(1) 909.1 through 909.7 See these sections of the IBC.

(2) 909.8 Exhaust method.

(a) 909.8.1 Exhaust rate. Delete the text of this provision of the IBC and substitute: The height of the lowest horizontal surface of the accumulating smoke layer shall be maintained at least 6 feet (1829 mm) above any walking surface which forms a portion of a required egress system within the smoke zone. The required exhaust rate for the zone shall be the largest of the calculated plume mass flow rates for the possible plume configurations. Provisions shall be made for a natural or mechanical supply of air from outside or adjacent smoke zones to make up for the air exhausted. Makeup airflow rates, when measured at the potential fire locations shall not increase the smoke production rate beyond the capabilities of the smoke control system. The temperature of the makeup air shall be such that it does not expose temperature-sensitive fire protection systems beyond their limits.

(b) 909.8.2 through 909.8.5. See these sections of the IBC.

(3) 909.9 Design fire. Delete this section of the IBC and substitute: The design fire shall be based on a rational analysis performed by a registered design professional and approved by the building official. The design fire shall be based on

the analysis in accordance with section 909.4 and this section.

(4) **909.10 through 909.19.** See these sections of the IBC.

(5) **909.20 Smokeproof enclosures.** See this section of the IBC except that subsection 909.20.4.1 is amended by deleting the references to "section 715.4" and replacing them with "section 715.3.3."

(6) **909.21 Underground building smoke exhaust system.** See this section of the IBC.

G. Sections 910 and 911. See these sections of the IBC. [14.7.2.17 NMAC - Rp, 14.7.2.18 NMAC, 7-1-04]

14.7.2.18 CHAPTER 10 MEANS OF EGRESS:

A. Sections 1001 through 1007. See these sections of the IBC.

B. Section 1008 - Doors, gates and turnstiles. See this section of the IBC except as provided below.

(1) **Section 1008.1.3.4 Access-controlled egress doors.** See this section of the IBC and add the words "When approved by the building official" at the beginning of the section.

(2) **Section 1008.1.8.6. Delayed egress locks.** See this section of the IBC and add the words "When approved by the building official" at the beginning of the section.

(3) **Section 1008.3 Turnstiles.** See this section of the IBC and add the words "When approved by the building official" at the beginning of the section.

C. Section 1009 - Stairways and handrails. See this section of the IBC except delete the text of subsection 1009.5.2 and substitute: Outdoor stairways and outdoor approaches to stairways shall be designed so that water will not accumulate on walking surfaces.

D. Section 1010 - Ramps. See this section of the IBC except delete the text of subsection 1010.7.2 and substitute: Outdoor stairways and outdoor approaches to stairways shall be designed so that water will not accumulate on walking surfaces.

E. Sections 1011 through 1025. See these sections of the IBC. [14.7.2.18 NMAC - Rp, 14.7.2.19 NMAC, 7-1-04]

14.7.2.19 CHAPTER 11 ACCESSIBILITY:

A. Section 1101 General. See this section of the IBC.

B. Section 1102 Definitions. See this section of the IBC and add the following definition: PRIMARY ENTRANCE means the entrance through which most people enter the building. A building may have more than one primary

entrance.

C. Section 1103 - Scoping requirements. See this section of the IBC except that the text of section 1103.2.4 is deleted and the following is substituted: Detached one- and two-family dwellings and accessory structures, and their associated sites and facilities, as applicable in section 101.2, that are not publicly funded are not required to be accessible.

D. Section 1104 - Accessible route. See this section of the IBC except delete exception to number 1 of section 1104.4 and substitute the following: An accessible route is not required to floors and mezzanines above and below accessible levels that have an area of less than 3,000 square feet (278.7m²) per story located either above or below the accessible level in buildings or buildings that are less than three (3) stories. This exception shall not apply to:

- (1) multiple tenant facilities of group M occupancies containing five or more tenant spaces;
- (2) levels containing offices of health care providers (group B or I);
- (3) passenger transportation facilities and airports (groups A-3 or B); or
- (4) the facility that is owned or leased by a governmental agency.

E. Section 1105 - Accessible entrances. See this section of the IBC except as provided below.

(1) Delete the text of section 1105.1, Public entrances, and substitute: In addition to accessible entrances required by sections 1105.1.1 through 1105.1.6, at least 50 % of all public entrances, but not less than one primary entrance shall be accessible, except an accessible entrance is not required to areas that are not required to be accessible; and loading and service entrances that are not the only entrance to a tenant space are not required to be accessible.

(2) Add the following new provision: **Section 1105.1.7 Other entrances.** In buildings owned or leased by a public entity, all entrances not required to be accessible, having a walking surface within 6 inches (152.4 mm) or less of the adjacent grade, shall be accessible to the adjacent grade.

F. Section 1106 - Parking and passenger loading facilities. See this section of the IBC except that Table 1106.1 is deleted and the following table is substituted:

Table 1106.1 Accessible Parking Space

Total Parking Spaces	Total Required Accessible Parking Spaces	Number Required to be Van Accessible
1-25	1	1
26-35	2	1
36-50	3	1
51-100	4	1
101-300	8	1
301-500	12	2
501-800	16	2
801-1000	20	3
Over 1,000	20 spaces plus 1 space for every 100 spaces, or fraction thereof, over 1,000	1 of every 8 accessible parking spaces, or fraction thereof

G. Section 1107 - Dwelling units and sleeping units. See this section of the IBC except as provided below.

(1) Delete the text of section 1107.6.2.1 and substitute: In occupancies in group R-2 containing more than 20 dwelling units or sleeping units, at least 2%, but not less than one of the units shall be a Type A unit. In Type A units, one in 10, but not less than one of the units shall provide a roll-in shower including a permanently mounted folding shower seat. All units on a site shall be considered to determine the total number of units and the required number of Type A units. Type A units shall be dispersed among the various classes of units.

(2) The following provision is inserted after table 1107.6.1.1: For publicly funded projects, the total number of accessible rooms shall be 5%, or fraction thereof. Of these rooms, 1%, or fraction thereof, shall be provided with roll-in showers.

H. Section 1108 - Special occupancies. See this section of the IBC except as provided below.

(1) Delete the text of section 1108.2.6 and substitute: Removable or folding arm-

rests, or no armrests, shall be provided on the aisle side of designated aisle seats. Each such seat shall be identified by a sign or marker and signage notifying patrons of the availability of such seats shall be posted at the ticket office; provided, however, that designated aisle seats are not required in luxury boxes, club boxes, or suites.

(2) Two new subsections of Section 1108.2.6 are added as follows:

(a) **1108.2.6.1 Number.** At least 5%, but not less than one, of the total number of aisle seats provided shall be designated aisle seats.

(b) **1108.2.6.2 Location.** At least one of each four required designated aisle seats shall be located not more than two rows from an accessible route serving such seats.

I. Section 1109 - Other features and facilities. See this section of the IBC except as provided below.

(1) Insert the following sentence at the end of section 1109.2: When 20 or more fixtures of any type are installed, at least two of that type shall be accessible.

(2) Add the following provision to the exceptions to section 1109.2.7: Toilet fixtures and bathing facilities that are in excess of those required by the minimum number of plumbing fixtures pursuant to the New Mexico construction codes and located in private restricted areas in other than government owned or leased facilities.

(3) Add the following provision to section 1109.3: Where only one accessible sink is provided, it shall be located in a toilet compartment.

(4) Add the following exception to section 1109.6: Limited-use/limited-application elevators may be used to access spaces or areas that have five or fewer occupants.

J. Section 1110 - Signage. See this section of the IBC except as provided below.

(1) Delete the text of Section 1110.1 and substitute: Required accessible elements shall be identified by the international symbol of accessibility where the total number of parking spaces provided is five or more as follows:

(a) accessible parking spaces shall be identified by a sign centered at the head of each parking space; and

(b) van accessible parking spaces shall have an additional sign mounted below the international symbol of accessibility identifying the space as "van accessible," unless all the accessible parking spaces comply with the standards for van accessible parking.

(2) Delete the text of number 5 of section 1110.1 and substitute: Accessible entrances where not all entrances are accessible, except entrances to individual

dwelling units and sleeping units.

(3) Add the following new provision at the end of section 1110.3: 5. Accessible parking spaces required by section 1106 shall be identified by the international symbol of accessibility. A clearly visible depiction of the symbol shall be painted in blue on the pavement surface, except where the total number of parking spaces provided is four or less, and the access aisle shall be clearly marked by diagonal, blue pavement striping.

[14.7.2.19 NMAC - Rp, 14.7.2.20 NMAC, 7-1-04]

14.7.2.20 CHAPTER 12 INTERIOR ENVIRONMENT: See this chapter of the IBC.

[14.7.2.20 NMAC - Rp, 14.7.2.21 NMAC, 7-1-04]

14.7.2.21 CHAPTER 13 ENERGY EFFICIENCY: Delete this chapter of the IBC and see the 2003 New Mexico energy conservation code.

[14.7.2.21 NMAC - Rp, 14.7.2.22 NMAC, 7-1-04]

14.7.2.22 CHAPTER 14 EXTERIOR WALLS: See this chapter of the IBC.

[14.7.2.22 NMAC - Rp, 14.7.2.23 NMAC, 7-1-04]

14.7.2.23 CHAPTER 15 ROOF ASSEMBLIES AND ROOFTOP STRUCTURES:

A. Section 1501. General. See this section of the IBC.

B. Section 1502.1 Definitions. See this section of the IBC except that the following definitions are amended as indicated.

(1) "Roof Replacement" is amended to read: The process of removing the existing roof covering to the structural roof deck, repairing any substrate, and installing a new roof covering.

(2) "Positive Roof Drainage" is amended to read: The drainage condition in which consideration has been made for all loading deflections of the roof deck, and the additional slope has been provided to ensure drainage of the roof within 48 hours of precipitation. Drainage has occurred when no more than ½ inch of standing water remains after 48 hours of precipitation in normal drying conditions.

C. Sections 1503 through 1505. See these sections of the IBC.

D. Section 1506 - Materials. See this section of the IBC and add a new section as follows: Section 1506.5 Loose granular fill - pumice and other granular fill type materials are not permitted in roofing assemblies.

E. Sections 1507 through 1509. See these sections of the IBC.

F. Section 1510 - Reroofing.

(1) **1510.1 and 1510.2.** See these sections of the IBC.

(2) **1510.3 Recovering versus replacing.** Delete the first three lines of this section and substitute: New roof coverings shall not be installed without first removing existing roof coverings down to the structural roof deck where any of the following conditions occur:

(3) **1510.4 through 1510.6.** See these sections of the IBC.

[14.7.2.23 NMAC - Rp, 14.7.2.24 NMAC, 7-1-04]

14.7.2.24 CHAPTER 16 STRUCTURAL DESIGN: See this chapter of the IBC.

[14.7.2.24 NMAC - Rp, 14.7.2.25 NMAC, 7-1-04]

14.7.2.25 CHAPTER 17 STRUCTURAL TESTS AND SPECIAL INSPECTIONS: See this chapter of the IBC except as provided below.

A. Section 1704.4 Concrete construction. See this section of the IBC except:

(1) delete subsection 2 and substitute: Continuous concrete footings supporting walls of buildings three stories or less in height that are fully supported on earth or rock.

(2) delete subsection 3 and substitute: Nonstructural concrete slabs supported directly on the ground, except pre-stressed slabs-on-grade.

(3) delete subsection 4.

B. Section 1709.1 Structural observations. See this section of the IBC except delete the last paragraph and substitute: Deficiencies shall be reported in writing to the owner and made available to the building official.

[14.7.2.25 NMAC - Rp, 14.7.2.26 NMAC, 7-1-04]

14.7.2.26 CHAPTER 18 SOILS AND FOUNDATIONS: See this chapter of the IBC except as provided below.

A. Section 1802.2.1 Questionable soil. Delete the text of this section of the IBC and substitute: Where the safe-sustaining capacity of the soil is in doubt, or where a load bearing value superior to that specified in this code is authorized, a subsurface investigation shall be made.

B. Section 1802.2.2 Expansive soils. Delete the text of this section of the IBC and substitute: In areas likely to have expansive or collapsible soil, the building official is authorized to require a

subsurface investigation.

C. Section 1802.5 Soil boring and sampling. See this section of the IBC except after the words "The design professional" in the second sentence, add the words "directing the investigation."

D. Section 1804.2 Presumptive load-bearing values. See this section of the IBC except after the word "peat" in the third paragraph, add the words "moisture sensitive soils."

E. Section 1805.5.6 Foundation wall drainage. Delete the text of this section of the IBC and substitute: When required by a subsurface investigation or the building official, foundation walls shall be designed to support the weight of the full hydrostatic pressure of un-drained backfill unless a drainage system is installed in accordance with sections 1807.4.2 and 1807.4.3 of the IBC.

F. Section 1807.2 Dampproofing required. See this section of the IBC except delete the words "floors and" before the word "walls."

G. Section 1807.2.1 Floors. Delete this section of the IBC.

H. Section 1807.4 Subsoil drainage system. See this section of the IBC except, at the beginning of section, delete the words "Where a hydrostatic pressure condition does not exist" and substitute: When required by a subsurface investigation or the building official,".

I. Section 1808.2.8.4 Allowable friction resistance. Delete the text of this section of the IBC and substitute: The assumed friction resistance developed by any pier or uncased cast-in-place pile shall not exceed one-sixth of the bearing value of the soil material at minimum depth as set forth in table 1804.2 of the IBC, up to a maximum of 500 pounds per square foot (24 kPa), unless a greater value allowed is determined by a soil investigation as specified in section 1802 of the IBC. Frictional resistance and bearing resistance shall not be assumed to act simultaneously unless recommended by a soil investigation as specified in section 1802 of the IBC.

J. Section 1808.2.9.2 Unbraced piles. See this section of the IBC except delete the words "the building official" before the words "a foundation investigation," and delete the words "by an approved agency" after the words "a foundation investigation."

K. Section 1808.2.10 Use of higher allowable pier or pile stresses. Delete the text of this section of the IBC and substitute: Allowable stresses greater than those specified for piers or for each pile type in sections 1808 and 1809 of the IBC are permitted when supporting data justifying higher stresses is substantiated by a soil investigation conducted according to sec-

tion 1802 of the IBC, and/or pier or pile load tests conducted according to section 1807.2.8.3, regardless of the load supported by the pier or pile. The installation of the pier foundation shall be under the supervision of a registered design professional knowledgeable in the field of soil mechanics and pier or pile foundations who shall submit documentation to the building official indicating that the piers or piles, as installed, satisfy the design criteria.

L. Section 1810.1.2 Reinforcement. Delete this section of the IBC and substitute: Except for steel dowels embedded five feet (1524 mm) or less in the pile and as provided in section 1809.3.4 of the IBC reinforcement, when required, shall be assembled and tied together and shall be placed in the pile as a unit before the reinforced portion of the pile is filled with concrete. When concrete is placed by pumping through a hollow-stem auger into augured uncased cast-in-place piles, tied reinforcement shall be placed after piles are concreted while the concrete is still in a semi-fluid state.

M. Section 1810.3.2 Dimensions. See this section of the IBC except delete the exception and substitute: The length of the pile is permitted to exceed 30 times the diameter, provided that the installation of the pile foundation is under the supervision of a registered design professional knowledgeable in the field of soil mechanics and pile foundations. The registered design professional shall submit documentation to the building official indicating that the piles were installed in compliance with the approved construction documents.

N. Section 1810.4.2 Dimensions. See this section of the IBC except delete the exception and substitute: The length of the pile is permitted to exceed 30 times the diameter, provided that the installation of the pile foundation is under the supervision of a registered design professional knowledgeable in the field of soil mechanics and pile foundations. The registered design professional shall submit documentation to the building official indicating that the piles were installed in compliance with the approved design

[14.7.2.26 NMAC - Rp, 14.7.2.27 NMAC, 7-1-04]

14.7.2.27 CHAPTER 19 CONCRETE: See this chapter of the IBC except as provided below.

A. Section 1906.4.4 Location in slabs, beams and girders. Delete the text of this section of the IBC and substitute: Construction joints in floors shall be located within the middle third of spans of slabs, beams and girders unless otherwise directed by the registered design professional. Joints in girders shall be off-

set at a minimum distance of two times the width of intersecting beams.

B. Section 1909.4 Design. See this section of the IBC except delete the exception.

C. Section 1916.2 Design. Delete the text of this section of the IBC as substitute: The safe supporting capacity of concrete-filled pipe columns shall be computed in accordance with generally accepted engineering practice.

D. Section 1916.6 Approvals. Delete this section of the IBC. [14.7.2.27 NMAC - Rp, 14.7.2.28 NMAC, 7-1-04]

14.7.2.28 CHAPTER 20 ALUMINUM: See this chapter of the IBC. [14.7.2.28 NMAC -Rp, 14.7.2.29 NMAC., 7-1-04]

14.7.2.29 CHAPTER 21 MASONRY: See this chapter of the IBC except as provided below.

A. Section 2109.8.4.3.1 Foundation support. See this section of the IBC and add the following exception: When perimeter is used, a variance is allowed for the stem wall width to be 2 inches (51 mm) smaller than the width of the adobe it supports.

B. Section 2111.4.1 Anchorage. Delete this section of the IBC and substitute: Two 3/16-inch by 1-inch (4.8 mm by 25.4mm) straps shall be embedded a minimum of 12 inches (305 mm) into the chimney with a 180 degree bend with a 6-inch (152 mm) extension around the vertical reinforcing bars in the outer face of the chimney. Each strap shall be fastened to the structural framework of the building with two 1/2-inch (12.7 mm) diameter bolts per strap. Where the joists do not head into the chimney, the anchor strap shall be connected to 2-inch by 4-inch (51 mm by 102 mm) ties crossing a minimum of four joists. The ties shall be connected to each joist with two 16d nails. As an alternative to the 2-inch by 4-inch (51 mm by 102 mm) ties, each anchor strap shall be connected to the structural framework by two 1/2-inch (12.7 mm) diameter bolts in an approved manner. [14.7.2.29 NMAC - Rp, 14.7.2.30 NMAC, 7-1-04]

14.7.2.30 CHAPTER 22 STEEL: See this chapter of the IBC. [14.7.2.30 NMAC - Rp, 14.7.2.31 NMAC, 7-1-04]

14.7.2.31 CHAPTER 23 WOOD: See this chapter of the IBC except as provided below.

A. Section 2305.3.4 Construction. See this section of the IBC except delete the words "except that 1/4 -

inch (6.4 mm) is permitted to be used where perpendicular loads permit" at the end of the third sentence.

B. Section 2305.3.9 Adhesives. Delete this section of the IBC and substitute: Adhesive attachment of shear wall sheathing is not permitted as a substitute for mechanical fasteners.

C. Section 2308.8.3 Framing around openings. See this section of the IBC except delete the first sentence and substitute: Trimmer and header joists shall be of sufficient size to support the load.

D. Section 2308.8.4 Supporting bearing partitions. See this section of the IBC except delete the first sentence and substitute: Bearing partitions parallel to joists shall be supported on beams, girders, built-up joists of sufficient size to carry the load, walls or other bearing partitions.
[14.7.2.31 NMAC - Rp, 14.7.2.32 NMAC, 7-1-04]

14.7.2.32 CHAPTER 24 GLASS AND GLAZING: See this chapter of the IBC except that section 2403 is amended as set forth below.

A. Section 2403.1 - Identification. Delete the first paragraph of this section of the IBC and substitute: Each pane shall bear the manufacturer's label designating the type and thickness of the glass or glazing material. The identification shall not be omitted unless approved by the building official. The building official is authorized to require an affidavit from the glazing contractor certifying that each light is glazed in accordance with approved construction documents that comply with the provisions of this chapter. Safety glazing shall be identified in accordance with section 2406.2.

B. Section 2403.2 - Glass supports. Delete this section of the IBC and substitute: Where one or more sides of any pane of glass is not firmly supported, or is subject to unusual load conditions, detailed construction documents, detailed shop drawings and analysis or test data assuring safe performance for the specific installation shall be submitted when required by the building official.
[14.7.2.32 NMAC - Rp, 14.7.2.33 NMAC, 7-1-04]

14.7.2.33 CHAPTER 25 GYPSUM BOARD AND PLASTER: See this chapter of the IBC except add the following provision to Section 2510.6: See also sections 1403.2, 1405.3 and 1503.2.
[14.7.2.33 NMAC - Rp, 14.7.2.34 NMAC, 7-1-04]

14.7.2.34 CHAPTER 26 PLAS-

TIC: See this chapter of the IBC.

[14.7.2.34 NMAC - Rp, 14.7.2.35 NMAC, 7-1-04]

14.7.2.35 CHAPTER 27 ELECTRICAL: Delete this chapter of the IBC and see the NMEC except as provided below.

A. Section 2701 - General.

(1) 2701.1 Scope. Delete the text of this section of the IBC and substitute: Electrical systems, including emergency and standby power systems, and electrical equipment, appliances, fixtures, fittings and appurtenances thereto, shall be installed, altered, repaired, replaced, maintained, tested and designed pursuant to the provisions of the NMEC.

(2) All references in the IBC to the international electrical code are deemed references to the NMEC.

B. Section 2702 - Emergency and Standby Power Systems.

(1) 2702.1 Installation (delete this section of the IBC).

(2) 2702.1.1 Stationary Generators (delete this section of the IBC).

(3) 2702.2 Where required. Emergency and standby power systems shall be required as follows:

(a) 2702.2.1 Group A Occupancies. See section 907.2.2.1 of the IBC.

(b) 2702.2.2 Smoke control systems. See section 909.11 of the IBC.

(c) 2702.2.3 Exit signs. See section 1011.5.3 of the IBC.

(d) 2702.2.4 Means of egress illumination. See section 1006.3 of the IBC.

(e) 2702.2.5 Accessible means of egress elevators. See section 1007.4 of the IBC.

(f) 2702.2.6 Horizontal sliding doors. See section 1009.1.3.3 of the IBC.

(g) 2702.2.7 Semiconductor fabrication facilities. See section 415.9.10 of the IBC.

(h) 2702.2.8 Membrane structures. See section 3102.8.2 of the IBC for standby power provision, and the international fire code for emergency power for exit signs in tents and membrane structures.

(i) 2702.2.9 Hazardous materials. See section 14.5.5 of the IBC.

(j) 2702.10 Highly toxic and toxic materials. See the international fire code.

(k) 2702.2.11 Organic peroxides. See the international fire code.

(l) 2702.2.12 Pyrophoric materials. See the international fire code.

(m) 2702.2.13 Covered mall buildings. See section 402.12 of the IBC.

(n) 2702.2.14 High-rise build-

ings. See sections 403.10 and 403.11 of the IBC.

(o) 2702.2.15 Underground buildings. See sections 405.9 and 405.10 of the IBC.

(p) 2702.2.16 Group I-3 occupancies. See section 408.4.2 of the IBC.

(q) 2702.2.17 Airport traffic control towers. See section 412.1.5 of the IBC.

(r) 2702.2.18 Elevators. See section 3003.1 of the IBC.

(s) 2702.2.19 Smoke proof enclosures. See section 909.20 of the IBC.

(t) 2702.3 Maintenance. Delete this section of the IBC.

[14.7.2.35 NMAC - Rp, 14.7.2.36 NMAC, 7-1-04]

14.7.2.36 CHAPTER 28 MECHANICAL SYSTEMS: Delete this chapter of the IBC and see the NMMC.

[14.7.2.36 NMAC - Rp, 14.7.2.37 NMAC, 7-1-04]

14.7.2.37 CHAPTER 29 PLUMBING SYSTEMS:

A. Section 2901 - General.

(1) 2901.1 Scope. Delete the text of this section of the IBC and substitute the following provision: Plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system, shall be installed, altered, repaired, replaced, maintained, tested and designed pursuant to the provisions of the NMPC.

(2) 2901.2 All references in chapter 29 of the IBC to the international plumbing code are deemed references to the NMPC.

B. Section 2902 - Minimum Plumbing Facilities.

(1) 2902.1 Minimum number of fixtures. See this section of the IBC.

(a) Table 2902.1 Minimum Number of Required Plumbing Facilities. See this table in the IBC.

(b) 2902.1.1 Unisex toilet and bath fixtures. Delete this section of the IBC and see 14.7.2.19 NMAC, Accessibility.

(2) 2902.2 to 2902.6.3 See these sections of the IBC.

[14.7.2.37 NMAC - Rp, 14.7.2.38 NMAC, 7-1-04]

14.7.2.38 CHAPTER 30 ELEVATORS AND CONVEYING SYSTEMS: See this chapter of the IBC.

[14.7.2.38 NMAC - Rp, 14.7.2.39 NMAC, 7-1-04]

14.7.2.39 CHAPTER 31 SPE-

ICIAL CONSTRUCTION: See this chapter of the IBC.
[14.7.2.39 NMAC - Rp, 14.7.2.40 NMAC, 7-1-04]

14.7.2.40 CHAPTER 32 ENCROACHMENTS INTO THE PUBLIC RIGHT-OF-WAY: See this chapter of the IBC.
[14.7.2.40 NMAC - Rp, 14.7.2.41 NMAC, 7-1-04]

14.7.2.41 CHAPTER 33 SAFEGUARDS DURING CONSTRUCTION: See this chapter of the IBC.
[14.7.2.41 NMAC - Rp, 14.7.2.42 NMAC, 7-1-04]

14.7.2.42 CHAPTER 34 EXISTING STRUCTURES: Delete this chapter of the IBC and see the NMEBC.
[14.7.2.42 NMAC - Rp, 14.7.2.43 NMAC, 7-1-04]

14.7.2.43 CHAPTER 35 REFERENCED SAMPLES: See this chapter of the IBC.
[14.7.2.43 NMAC - Rp, 14.7.2.44 NMAC, 7-1-04]

14.7.2.44 APPENDIX E SUPPLEMENTARY ACCESSIBILITY REQUIREMENTS:

A. E101 - General. See this section of the IBC.

B. E102 - Definitions. See this section of the IBC and add the following definition: CHILDREN'S USE means spaces and elements specifically designed for use primarily by people 12 years old and younger.

C. E103 - Accessible route. See this section of the IBC.

D. E104 - Special occupancies. See this section of the IBC.

E. E105 - Other features and facilities. See this section of the IBC except delete subsection E105.2.

F. E106 - Telephones. See this section of the IBC.

G. E107 - Signage. See this section of the IBC except delete subsection E107.1.

H. E108 through E112. See these sections of the IBC.

I. E113 - Children's standards. The technical requirements in the main body of the IBC are based on adult dimensions and anthropometrics. This section contains technical requirements based on children's dimensions and anthropometrics.

(1) E113.1 The predominant use of an element (rather than a building or facility) shall guide the determination of whether to use specifications for adults or

children for that element. If children are the primary users of the element, children's specifications shall be applied. The children's specifications used should be based on the age group having predominant use of the element.

(2) E113.2 The specifications of one age group shall be applied consistently (i.e. in the installation of a water closet and its related elements).

(3) E113.3 Water closet compartments for children's use. Accessible water closet compartments for children's use shall comply with E113.2 and 14.7.2.19.1 NMAC, above.

(a) E113.3.1 Wheelchair accessible compartments. Wheelchair accessible compartments shall be 60 inches (1525 mm) wide, minimum, measured perpendicular to the side wall, and 59 inches (1500 mm) deep, minimum, measured perpendicular to the rear wall. In wheelchair accessible compartments, the front partition and at least one side partition shall provide a toe clearance of 12 inches (305 mm), minimum, above the floor and six inches (152 mm) deep, minimum, beyond the compartment-side face of the partition, exclusive of partition support members.

(b) E113.3.2 Ambulatory compartments. Ambulatory water closet compartments for children's use shall comply with E113.3 and 14.7.2.19 NMAC, above.

(4) E113.4 Ramps for children's use.

(a) E113.4.1 Slope. When children are the primary users of a ramp, the maximum slope of the ramp shall be 1:20. Where 1:20 is not feasible, a maximum slope of 1:16 is permitted. The maximum horizontal run for any slope shall be 20 feet (6.096 mm). In alterations, when a 1:16 ramp is technically unfeasible, a maximum slope of 1:12 will be permitted if the level change does not exceed six inches (152 mm).

(b) E113.4.2 Width. The maximum clear width of ramps shall be 44 inches (1118 mm). The minimum clearance width for two wheelchairs to pass shall be 88 inches (2236 mm).

(5) E113.5 Mounting heights for children. When children are the primary users of a building or facility (such as day care centers, schools, children's areas of libraries, etc.), the accessibility standards used for mounting heights and reach ranges of various elements, fixtures, and equipment shall be permitted to correspond to the specifications of the age of the primary user group as shown in Table E113.4. For exceptions to these requirements see (a) and (b) below.

(a) Dining surfaces and work surfaces that are used primarily by children ages five and younger shall not be required

to comply with Table E113.4 where a clear floor or ground space positioned for an accessible parallel approach is provided.

(b) The building official is authorized to approve variances to the requirements of E113.5 (a) when the alternative designs and technologies used will provide substantially equivalent or greater accessibility and usability.

[Please see Table E113.4 on page 487]

**TABLE E113.4
MOUNTING HEIGHTS FOR CHILDREN AGES 3 THROUGH 12**

	Ages 3 and 4	Ages 5 through 8	Ages 9 through 12
Reach ranges Forward or side approach	20"-36" (510-915 mm)	18"-40" (455-1015 mm)	16"-44" (405-1118 mm)
Ramps and stairs Top of handrail gripping surface ¹	28" max. (710 mm)	28" max. (710 mm)	34" max. (865 mm)
Drinking fountains and water coolers Spout height to outlet Knee clearance (height)	30" max. (762 mm) 24" min. (610 mm)	30" max. (762 mm) 24" min. (610 mm)	32" max. (813 mm) 26" min. (660 mm)
Water closets Centerline Toilet seat height Grab bar height to centerline Flush control height Toilet paper dispenser height to centerline ² Coat hooks and shelves	12" (305 mm) 11"-12" (280-305 mm) 18"-20" (455-510 mm) 36" max. (915 mm) 14" (355 mm) 20"-36" (510-915 mm)	12"-15" (305-380 mm) 12"-15" (305-380 mm) 20"-25" (510-635 mm) 36" max. (915 mm) 14"-17" (355-430 mm) 18"-40" (455-1015 mm)	15"-18" (380-455 mm) 15"-17" (380-430 mm) 25"-27" (635-685 mm) 36" max. (915 mm) 17"-19" (430-485 mm) 16"-44" (405-1120 mm)
Urinals Top of rim Flush controls	14" max. (355 mm) 30" max. (762 mm)	14" max. (355 mm) 30" max. (762 mm)	14" max. (355 mm) 36" max. (915 mm)
Lavatories and sinks Rim or counter surface Knee clearance To faucets from front edge of lavatories	22" max. ³ (559 mm) none required with parallel approach 14" max. (355 mm)	31" max. (797 mm) 24" min. (610 mm) 14" max. (355 mm)	31" max. (797 mm) 24" min. (610 mm) 20" max. (510 mm)
Mirrors ⁴ To bottom of reflective surface	30" max. or as low as possible (762 mm)	34" max. or as low as possible (865 mm)	34" max. or as low as possible (865 mm)
Shower stalls Top of seat Grab bars Faucets and other controls	14"-15" (355- mm) 25"-27" (635-685 mm) 36" max. (915 mm)	14"-15" (355-380 mm) 28"-30" (710-762 mm) 40" max. (1015 mm)	15"-17" (380-430 mm) 30"-32" (762-813 mm) 44" max. (1120 mm)
Storage Frontal approach Side approach	20"-36" (510-915 mm) 20"-36" (510-915 mm)	20"-40" (510-1015 mm) 40" max. (1015 mm)	20"-44" (510-1120 mm) 44" max. (1120 mm)

¹Sufficient vertical clearance between upper and lower handrails, 9 inches (230mm) minimum, shall be provided.

²The centerline of the dispenser shall be 7 to 9 inches (180-230 mm) in front of the water closet.

³When two or more lavatories are provided in facilities used by pre-kindergarten children.

⁴If mirrors are provided, a single full-length mirror shall be provided with the bottom edge 18 inches (457 mm) maximum above the floor. The mirror shall be at least 74 inches (1879.6 mm) high. Clear floor space of 30 by 48 inches (760 by 1220 mm) for a forward approach shall be provided in front of full-length mirrors. Doors shall not swing into this clear floor space.

[14.7.2.45 NMAC - N, 7-1-04]

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 7 BUILDING CODES
GENERAL
PART 3 2003 NEW MEXICO
RESIDENTIAL BUILDING CODE**

14.7.3.1 ISSUING AGENCY: Construction Industries Division (CID) of the Regulation and Licensing Department.
[14.7.3.1 NMAC - N, 7-1-04]

14.7.3.2 SCOPE: This rule applies to all construction, alteration, relocation, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of all detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three (3) stories high with separate means of egress, and their accessory structures that is performed in New Mexico on or after July 1, 2004, and that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date. Any repair, alteration or addition to such building that is associated with a change of occupancy, and any construction not addressed in the NMRBC, shall be subject to and shall comply with the NMCBC.
[14.7.3.2 NMAC - N, 7-1-04]

14.7.3.3 STATUTORY AUTHORITY: NMSA 1978 Section 60-13-9 and 60-13-44.
[14.7.3.3 NMAC - N, 7-1-04]

14.7.3.4 DURATION: Permanent.
[14.7.3.4 NMAC - N, 7-1-04]

14.7.3.5 EFFECTIVE DATE: July 1, 2004, unless a later date is cited at the end of a section.
[14.7.3.5 NMAC - N, 7-1-04]

14.7.3.6 OBJECTIVE: The purpose of this rule is to establish minimum standards for the general construction of residential buildings in New Mexico.
[14.7.3.6 NMAC - N, 7-1-04]

14.7.3.7 DEFINITIONS: [See 14.5.1 NMAC, General Provisions and chapter 2 of the 2003 international residential code (IRC) as amended in 14.7.3.10 NMAC.]
[14.7.3.7 NMAC - N, 7-1-04]

14.7.3.8 ADOPTION OF THE 2003 INTERNATIONAL RESIDENTIAL CODE:

A. This rule adopts by reference the 2003 international residential code, as amended by this rule.

B. In this rule, each provision is numbered to correspond with the numbering of the 2003 international residential code.
[14.7.3.8 NMAC - N, 7-1-04]

14.7.3.9 CHAPTER 1 ADMINISTRATION:

A. Section R101 - Title, Scope and Purpose.

(1) R101.1 Title. Delete this section of the IRC and substitute: This code shall be known as the 2003 New Mexico residential building code (NMRBC).

(2) R101.2 Scope. Delete this section of the IRC and see 14.7.3.2 NMAC, Scope.

(3) R101.3 Purpose. See 14.7.3.6 NMAC, Objective.

B. Section R102 - Applicability.

(1) R102.1 General. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

(2) R102.2 Other laws. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

(3) R102.3 Application of references. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

(4) R102.4 Referenced codes and standards. Delete this section of the IRC and substitute the following: The codes referenced in the NMRBC are set forth below. See also 14.5.1 NMAC, General Provisions.

(a) Electrical. The NMEC applies to all electrical wiring as defined in

NMSA 1978 Section 60-13-32. All references in the IRC to the ICC electrical code are deemed references to the NMEC.

(b) Gas. The NMMC applies to "gas fittings" as that term is defined in NMSA 1978 Section 60-13-32. All references in the IRC to the international mechanical code are deemed references to the NMMC.

Gas piping, systems and appliances for use with liquefied propane gas (LPG), or compressed natural gas (CNG), shall be governed by the LPG standards (NMSA 1978, Section 70-5-1 et seq., LPG and CNG Act, and the rules promulgated pursuant thereto, 19.15.4.1 through 19.15.4.24 NMAC.)

(c) Mechanical. The NMMC applies to the installation, repair, and replacement of mechanical systems including equipment, appliances, fixtures, fittings and/or appurtenances including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy related systems. All references in the IRC to the international mechanical code are deemed references to the NMMC.

(d) Plumbing. The NMPC applies to the installation, alterations, repairs, and replacement of plumbing systems, including equipment, appliances, fixtures, fittings, and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system. All references in the IRC to the international plumbing code are deemed references to the NMPC.

(e) Energy. The NMECC applies to all energy-efficiency-related requirements for the design and construction of buildings that are subject to the New Mexico construction codes. All references in the IRC to the international energy code are deemed references to the NMECC.

(5) R102.5 Appendices. See this section of the IRC.

(6) R102.6 Partial Invalidity. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

(7) R102.7 Existing structures. See this section, and sub-section R102.7.1, additions, alterations or repairs, of the IRC, except that the references to the international property maintenance code and the international fire code are deleted.

C. Section R103 - Department of Building Safety. Delete this section of the IRC.

D. Section R104 - Duties and Powers of Building Official. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

E. Section R105 - Permits. Delete this section of the IRC and see 14.5.2 NMAC, Permits.

F. Section R106 - Construction Documents. Delete this pro-

vision of the IRC and see 14.5.2 NMAC, Permits.

G. Section R107 - Temporary Structures and Uses. Delete this section of the IRC and see 14.5.2 NMAC, Permits.

H. Section R108 - Fees. Delete this section of the IRC and see 14.5.5 NMAC, Fees.

I. Section R109 - Inspections. Delete this section of the IRC and see 14.5.3 NMAC, Inspections.

J. Section R110 - Certificate of Occupancy. Delete this section of the IRC and see 14.5.3 NMAC, Inspections.

K. Section R111 - Service Utilities. Delete this section of the IRC and see 14.5.3 NMAC, Inspections.

L. Section R112 - Board of Appeals. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

M. Section R113 - Violations. Delete this section of the IRC and see CILA 60-13-1 et seq., and 14.5.3 NMAC, Inspections.

N. Section R114 - Stop Work Order. Delete this section of the IRC and see 14.5.3 NMAC, Inspections. [14.7.3.9 NMAC - N, 7-1-04]

14.7.3.10 CHAPTER 2 DEFINITIONS:

A. Section R101 General.

(1) R201.1, R201.2 and R201.4 See these sections of the IRC.

(2) R201.3 Terms defined in other codes. Delete this section of the IRC and substitute the following provision: Defined terms not listed in this rule have the meanings given in 14.5.1.7 NMAC, General Provisions, and in the other New Mexico codes.

B. Section R202 Definitions.

(1) Board of appeals. Delete this definition and see 14.5.1 NMAC, General Provisions.

(2) Building official Delete this definition and see 14.5.1 NMAC, General Provisions.

(3) Design Professional and Registered Design Professional. Delete these definitions and see 14.5.1 NMAC, General Provisions.

(4) Earthen building materials has the meaning given in 14.7.4 NMAC, 2003 New Mexico earthen building materials code.

(5) Exterior finish coating means a single coat of plaster, cementitious or other approved material applied to a concrete or masonry surface for cosmetic purposes only.

(6) ICBO means the international conference of building officials.

(7) Manufactured Home.

Delete this definition from the IRC.

(8) Sleeping room means a room designated as a sleeping room or bedroom on the plans.

(9) All other terms defined in this section of the IRC have the meanings given in that section.

[14.7.3.10 NMAC - N, 7-1-04]

14.7.3.11 CHAPTER 3 BUILDING PLANNING:

A. Section R301 - Design

Criteria. This section of the IRC is amended to include the following sentence at the end of the "exception" provision of subsection R301.2.2, seismic provisions: buildings in which earthen building materials form the bearing wall system, that are located in seismic design categories A, B, C and D1 are exempt from the seismic requirements of this code.

B. Section R302 through Section R309

See these sections of the IRC.

C. Section R310

Emergency Escape and Rescue

Openings.

See this section of the IRC except that the text of section R310.1 is deleted and the following language is inserted: every sleeping room shall have at least one functioning emergency escape and rescue opening, including a sleeping room in a basement. Emergency escape and rescue openings are not required in basement areas that are not sleeping rooms. Emergency escape and rescue openings shall have a sill height of no more than 44 inches (1118mm) above a permanent interior standing surface. If a door opening, to be used as an emergency escape and rescue opening, has a threshold that is below the adjacent ground elevation and is provided with a bulkhead enclosure, the bulkhead enclosure must comply with section 310.3. The net clear opening dimensions required in this Section apply to the emergency escape and rescue openings, operated normally from the inside. Emergency escape and rescue openings, which have a finished sill height lower than the adjacent ground elevation, must have a window well that complies with section R310.2.

D. Section R311 Means of Egress.

(1) R311.1 through R311.3 See these sections of the IRC.

(2) R311.4 Doors. See this section of the IRC except that the text of section R311.4.3, landings at doors, is deleted and the following language is inserted: There shall be a floor or landing on each side of each exterior door, except as provided in (a) and (b) below.

(a) Where a stairway with two or fewer risers is located on the exterior side of any door, other than a required exit door, a

landing is not required on the exterior side of the door. The floor or landing at an exit door required by section R311.4.1 shall not be more than 1.5 inches (38mm) lower than the top of the threshold. The floor or landing at exterior doors other than exit doors required by section R311.4.1, is not required to comply with this requirement, but shall have a rise no greater than 8 inches (2003mm).

(b) The landing at an exterior doorway, where the door does not swing over the landing, shall not be more than 8 inches (203 mm) below the top of the threshold unless it is an exterior screen or storm door. The width of each landing shall not be less than the door served. The minimum dimension of every landing shall be 36 inches (914 mm) measured in the direction of travel.

(3) R311.5 Stairways. See this section of the IRC except as provided below.

(a) The first sentence of section R311.5.1 is deleted and the following sentence is inserted: The maximum riser height shall be 8 inches (203 mm).

(b) The text of section R311.5.3.2, tread depth, is deleted and the following language is inserted: The minimum tread depth shall be 9 inches (229 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Winder treads shall have a minimum tread depth of 9 inches (229 mm) measured as above at a point 12 inches (305 mm) from the side where the treads are narrower. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point. Within any flight of stairs, the greatest winder tread depth at the 12 inch (305 mm) walk line shall not exceed the smallest by more than 3/8 inch (9.5 mm).

(c) Delete section R311.5.3.3.

(d) Delete the first sentence, only, of R311.5.6.3 and substitute the following provision: All required handrails shall be of one of the following types, or the shape shall provide equivalent graspability.

E. Section R312 through Section R323 See these sections of the IRC. [14.7.3.11 NMAC - N, 7-1-04]

14.7.3.12 CHAPTER 4 FOUNDATIONS:

A. Section R40 and Sections R402 through R408. See these sections of the IRC.

B. Section R403 Footings. See this section of the IRC except that the text of section R403.1.4 is

deleted and the following language is inserted: All exterior footings shall be placed at least 12 inches (305 mm) below the grade. Where applicable, the depth of footings shall also conform to sections R403.1.4.1 and R403.1.4.2.

[14.7.3.12 NMAC - N, 7-1-04]

14.7.3.13 CHAPTER 5 FLOORS: See this chapter of the IRC.
[14.7.3.13 NMAC - N, 7-1-04]

14.7.3.14 CHAPTER 6 WALL CONSTRUCTION:

A. Section R601. General. See this section of the IRC.

B. Section R602. Wood Wall Framing. See this section of the IRC except as provided below.

(1) Add a new section as follows: R602.1.3 Native timber. Rough-sawn lumber and timber, including vigas, used for any load bearing application shall be identified by a report of a lumber grader or inspection agency that has been approved by CID.

(2) Delete the text of section R602.10.6 and substitute: Alternate braced wall lines constructed in accordance with (a) or (b), below, shall be permitted to replace each 4 feet (1219 mm) of braced wall panel as required by section R602.10.4.

(a) In one-story buildings, each panel shall have a length of not less than 16 inches (406 mm) and a height of not more than 10 feet (3048 mm). Each panel shall be sheathed on one face with 3/8 inch (9.5 mm) minimum thickness wood structural panel sheathing nailed with 8d common or galvanized box nails in accordance with table R602.3.(1) and blocked at all wood structural panel sheathing edges. Anchor bolts shall be placed at panel quarter points. For walls between 12 inches (305 mm) and 16 inches (406 mm) in length and a height of not more than 10 feet (3048 mm), panels shall be nailed as above and have one anchor bolt placed at the center of the panel. The panels shall be supported directly on a foundation or on floor framing supported directly on a foundation, which is continuous across the entire length of the braced wall line. This foundation shall be reinforced with not less than one No. 4 bar top and bottom. When the continuous foundation is required to have a depth greater than 12 inches (305 mm), a minimum 12-inch-by-12-inch (305 mm by 305 mm) continuous footing or turned down slab edge shall be reinforced with not less than one No. 4 bar top and bottom. This reinforcement shall be lapped 15 inches (381 mm) with the reinforcement required in the continuous foundation located directly under the braced wall line.

(b) In the first story of two-story buildings, each braced wall panel shall be in accordance with (a), above, except that the wood structural panel sheathing shall be provided on both faces, sheathing edge nailing spacing shall not exceed 4 inches (101.6 mm) on center, at least three anchor bolts shall be placed at one-fifth points.

C. Section R603 through Section R612 . See these sections of the IRC.
[14.7.3.14 NMAC - N, 7-1-04]

14.7.3.15 CHAPTER 7 WALL COVERING:

A. Section R701 and Section R702. See these sections of the IRC.

B. Section R703 Exterior Covering. See this section of the IRC except insert the following at the end of the first paragraph of section R703.6.2: exterior finish coatings which have a current ICBO evaluation report, and applied to a concrete or masonry surface shall be installed in accordance with the manufacturer's installation instructions and are not required to comply with table 702.1(1).
[14.7.3.15 NMAC - N, 7-1-04]

14.7.3.16 CHAPTER 8 ROOF-CEILING CONSTRUCTION: See this chapter of the IRC.
[14.7.3.16 NMAC - N, 7-1-04]

14.7.3.17 CHAPTER 9 ROOF ASSEMBLIES: See this chapter of the IRC.
[14.7.3.17 NMAC - N, 7-1-04]

14.7.3.18 CHAPTER 10 CHIMNEYS AND FIREPLACES: See this chapter of the IRC.
[14.7.3.18 NMAC - N, 7-1-04]

14.7.3.19 CHAPTER 11 ENERGY EFFICIENCY: Delete this chapter of the IRC and see 14.7.6 NMAC, the 2003 New Mexico energy conservation code.
[14.7.3.19 NMAC - N, 7-1-04]

14.7.3.20 CHAPTERS 12 THROUGH 23 MECHANICAL: Delete these chapters of the IRC and see 14.9.2, NMMC.
[14.7.3.20 NMAC - N, 7-1-04]

14.7.3.21 CHAPTER 24 FUEL GAS: Delete this chapter of the IRC and see the NMMC.
[14.7.3.21 NMAC - N, 7-1-04]

14.7.3.22 CHAPTERS 25 THROUGH 32 PLUMBING: Delete these chapters of the IRC and see the

NMPC.

[14.7.3.22 NMAC - N, 7-1-04]

14.7.3.23 CHAPTERS 33 THROUGH 42 ELECTRICAL: Delete these chapters of the IRC and see the NMEC.

[14.7.3.23 NMAC - N, 7-1-04]

14.7.3.24 CHAPTER 43 REFERENCED STANDARDS: See this section of the IRC.

[14.7.3.24 NMAC - N, 7-1-04]

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 7 BUILDING CODES
GENERAL
PART 6 2003 NEW MEXICO
ENERGY CONSERVATION CODE**

14.7.6.1 ISSUING AGENCY: Construction Industries Division (CID) of the Regulation and Licensing Department.
[14.7.6.1 NMAC - N, 7-1-04]

14.7.6.2 SCOPE: This rule applies to all contracting work performed in New Mexico on or after July 1, 2004, that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date, unless excepted or exempted below.

A. Exceptions.

(1) **Existing buildings.** Existing buildings undergoing repair, alteration, addition or change of occupancy that comply with the 2003 New Mexico existing building code or the 2003 New Mexico commercial building code are excepted from the requirements of this rule.

(2) **ASHRAE.** Commercial buildings that comply with the requirements of the 2001 edition of ASHRAE/IESNA 90.1 are excepted from the requirements of this rule.

B. Exempted buildings.

See section 101.2.1 of the international energy conservation code.
[14.7.6.2 NMAC - N, 7-1-04]

14.7.6.3 STATUTORY AUTHORITY: NMSA 1978 sections 60-13-9 and 60-13-44.
[14.7.6.3 NMAC - N, 7-1-04]

14.7.6.4 DURATION: Permanent.
[14.7.6.4 NMAC - N, 7-1-04]

14.7.6.5 EFFECTIVE DATE: July 1, 2004, unless a later date is cited at the end of a section.
[14.7.6.5 NMAC - N, 7-1-04]

14.7.6.6 OBJECTIVE: The purpose of this rule is to establish minimum standards for energy conservation in construction in New Mexico.
[14.7.6.6 NMAC - N, 7-1-04]

14.7.6.7 DEFINITIONS:
[See 14.5.1 NMAC, General Provisions and chapter 2 of the IECC as amended in 14.7.6.10 NMAC.]
[14.7.6.7 NMAC - N, 7-1-04]

14.7.6.8 ADOPTION OF THE 2003 NEW MEXICO ENERGY CONSERVATION CODE:

A. This rule adopts by reference the 2003 international energy conservation code (IECC), as amended by this rule.

B. In this rule, each provision is numbered to correspond with the numbering of the 2003 international energy conservation code.
[14.7.6.8 NMAC - N, 7-1-04]

14.7.6.9 CHAPTER 1 ADMINISTRATION:

A. Section 101 - General.

(1) 101.1 Title. Delete this section of the IECC and substitute: This rule shall be known as the 2003 New Mexico energy conservation code (NMECC).

(2) 101.2 Scope. Delete this section of the IECC and see 14.7.6.2 NMAC, Scope.

(a) 101.2.1 Exempt buildings. See this section of the IECC.

(b) 101.2.2 Applicability. Delete this section of the IECC and see 14.5.1 NMAC, General Provisions and the NMECC.

(c) 101.2.3 Mixed occupancy. See this section of the IECC.

(3) 101.3 Intent. Delete this section of the IECC and see 14.7.6.6 NMAC, Objective.

(4) 101.4 Compliance. See this section of the IECC.

B. Section 102 - Materials, systems and equipment. See this section of the IECC.

C. Section 103 - Alternate materials - method of construction, design or insulating systems. Delete this section of the IECC and see 14.5.1 NMAC, General Provisions.

D. Section 104 - Construction documents. See this section of the IECC and 14.5.2 NMAC, Permits.

E. Section 105 - Inspections. Delete this section of the

IECC and see 14.5.3 NMAC, Inspections.

F. Section 106 - Validity. Delete this section of the IECC and see 14.5.1 NMAC, General Provisions.

G. Section 107 - Referenced standards.

(1) 107.1 General. See this section of the IECC.

(2) 107.2 Conflicting requirements. Delete this section of the IECC and see 14.5.1 NMAC, General Provisions.

(3) 107.3 Referenced codes. All references in the IECC to the international building code shall be deemed references to 14.7.2 NMAC, the 2003 New Mexico commercial building code (NMCBC). All references to the international residential code shall be deemed references to 14.7.3 NMAC, the 2003 New Mexico residential building code (NMRBC). All references to the international plumbing code shall be deemed references to 14.8.2 NMAC, the 2003 New Mexico plumbing code (NMPC). All references to the international mechanical code shall be deemed references to 14.9.2, the 2003 New Mexico mechanical code (NMMC). All references to the ICC or international electrical code shall be deemed references to 14.10.4 NMAC, the 2003 New Mexico electrical code (NMEC). All references to the international energy conservation code shall be deemed references to 14.7.6 NMAC, the 2003 New Mexico energy conservation code (NMECC). All references to the international fuel gas code are deemed references to the NMMC or the LP gas standards found at 19.15.40 NMAC, and NMSA 1978 70-5-1 et seq.
[14.7.6.9 NMAC - N, 7-1-04]

14.7.6.10 CHAPTER 2 DEFINITIONS: See this chapter of the IECC except as provided below.

A. Section 201.1 Scope. See this section of the IECC and add the following: If the same term is defined in the New Mexico construction codes and in the IECC, the term shall have the meaning given it in the New Mexico construction codes.

B. Section 201.3 Terms defined in other codes. Delete this section of the IECC and substitute: If a term is not defined in this code but is defined in a New Mexico construction code, the term shall have the meaning given it in the New Mexico construction code.
[14.7.6.10 NMAC - N, 7-1-04]

14.7.6.11 CHAPTER 3 DESIGN CONDITIONS: See this section of the IECC.
[14.7.6.11 NMAC - N, 7-1-04]

14.7.6.12 CHAPTER 4 RESI-

DENTIAL BUILDING DESIGN BY SYSTEMS ANALYSIS AND DESIGN OF BUILDINGS UTILIZING RENEWABLE ENERGY SOURCES: See this section of the IECC except add the following provision to section 402.2.1.4, skylights: Exception. Up to the equivalent of 1% of the total heated square footage is allowed to be installed with double-wall, double-dome, or insulated skylights that comply with sections 14.7.2.32 and 14.7.2.34 NMAC which reference chapters 24 and 26 of the IBC.
[14.7.6.12 NMAC - N, 7-1-04]

14.7.6.13 CHAPTER 5 RESIDENTIAL BUILDING DESIGN BY COMPONENT PERFORMANCE APPROACH: See this section of the IECC except as provided below.

A. Section 505.1 Electrical energy consumption. Delete this section of the IECC.

B. Section 502.2.3.4 Slab-on-grade floors. See this section of the IECC and add the following exception: For slab-on-grade installations, the placement of vertical perimeter insulation shall not be required to penetrate the top four inches of the slab at door thresholds or between unheated garages, storage or mechanical areas, and heated living spaces. The required depth and placement of perimeter insulation shall not be required to a depth that exceeds that of the top of the spread footing or the bottom of the monolithically-poured footing as determined for frost protection. If the condition described in the preceding sentence occurs in areas of 6,000 heating degrees days or greater, additional insulation to meet model energy code minimums is permitted to be placed horizontally under the adjacent slab.
[14.7.6.13 NMAC - N, 7-1-04]

14.7.6.14 CHAPTER 6 SIMPLIFIED PRESCRIPTIVE REQUIREMENTS FOR DETACHED ONE- AND TWO-FAMILY DWELLINGS AND GROUP R-2, R-4 OR TOWNHOUSE RESIDENTIAL BUILDINGS: See this section of the IECC except delete section 605.1, electrical energy consumption.
[14.7.6.14 NMAC - N, 7-1-04]

14.7.6.15 CHAPTER 7 BUILDING DESIGN FOR ALL COMMERCIAL BUILDINGS: See this section of the IECC.
[14.7.6.15 NMAC - N, 7-1-04]

14.7.6.16 CHAPTER 8 DESIGN BY ACCEPTABLE PRACTICE FOR COMMERCIAL BUILDINGS: See this section of the IECC except delete section 805.7 electrical energy con-

sumption.

[14.7.6.16 NMAC - N, 7-1-04]

14.7.6.17 CHAPTER 9 CLIMATE MAPS: See this section of the IECC.

[14.7.6.17 NMAC - N, 7-1-04]

14.7.6.18 CHAPTER 10 REFERENCED STANDARDS: See this section of the IECC.

[14.7.6.18 NMAC - N, 7-1-04]

HISTORY OF 14.7.6 NMAC: [Reserved]

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 7 BUILDING CODES
GENERAL
PART 7 2003 NEW MEXICO
EXISTING BUILDING CODE**

14.7.7.1 ISSUING AGENCY: Construction Industries Division (CID) of the Regulation and Licensing Department.
[14.7.7.1 NMAC - N, 7-1-04]

14.7.7.2 SCOPE: This rule applies to contracting performed on existing buildings in New Mexico, but not contracting performed on detached one- and two-family dwellings or townhouses not more than three stories above grade plane in height with a separate means of egress, and their accessory structures, on or after July 1, 2004, that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date, with the following exceptions:

A. Electrical. Electrical wiring as defined in CILA section 60-13-32, including installation, repair, alteration, change of occupancy, addition and relocation of existing buildings shall be in accordance with 14.10.4 NMAC, the 2002 New Mexico electrical code (NMEC).

B. Mechanical. All mechanical work, including installation, repair, alteration, change of occupancy, addition and relocation, on existing buildings shall be in accordance with 14.9.2 NMAC, the 2003 New Mexico mechanical code (NMMC).

C. Plumbing. All plumbing work, including installation, repair, alteration, change of occupancy, addition and relocation, on existing buildings shall

be in accordance with 14.8.2 NMAC, the 2003 New Mexico plumbing code (NMPC).

D. LP Gas. All liquid petroleum and compressed natural gas work, including installation, repair, alteration, change of occupancy, addition and relocation, on existing buildings shall be in accordance with the NMMC or 19.15.40 NMAC, Liquefied petroleum gas standards, and NMSA 1978 70-5-1 et seq., Liquefied and compressed gasses (collectively the LP gas standards).

[14.7.7.2 NMAC - N, 7-1-04]

14.7.7.3 STATUTORY AUTHORITY: NMSA 1978 Section 60-13-9.

[14.7.7.3 NMAC - N, 7-1-04]

14.7.7.4 DURATION: Permanent.

[14.7.7.4 NMAC - N, 7-1-04]

14.7.7.5 EFFECTIVE DATE: July 1, 2004, unless a later date is cited at the end of a section.

[14.7.7.5 NMAC - N, 7-1-04]

14.7.7.6 OBJECTIVE: The purpose of this rule is to establish minimum standards for construction work performed on existing buildings in New Mexico.

[14.7.7.6 NMAC - N, 7-1-04]

14.7.7.7 DEFINITIONS: [See 14.5.1 NMAC, General Provisions, and chapter 2 of the IEBC as amended in 14.7.7.10 NMAC.]

[14.7.7.7 NMAC - N, 7-1-04]

14.7.7.8 ADOPTION OF THE 2003 NEW MEXICO EXISTING BUILDING CODE:

A. This rule adopts by reference, and amends, the 2003 international existing building code.

B. In this rule, each provision is numbered to correspond with the numbering of the 2003 international existing building code.

[14.7.7.8 NMAC - N, 7-1-04]

14.7.7.9 CHAPTER 1 ADMINISTRATION:

A. Section 101 - General.
(1) 101.1 Title. Delete this section of the IEBC and substitute: This code shall be known as the 2003 New Mexico existing building code.

(2) 101.2 Scope. Delete this section of the IEBC and see 14.7.7.2 NMAC, Scope.

(3) 101.3 Intent. Delete this section of the IEBC and see 14.7.7.6 NMAC, Objective.

(4) 101.4 Existing buildings.

Delete this section of the IEBC and substitute: The legal occupancy of any structure existing on the effective date of this rule shall be permitted to continue without change, except as is specifically provided otherwise in this rule, in the 2003 New Mexico existing building code, or by the building official in consideration of the general safety and welfare of the occupants of any such building and the general public.

(5) 101.5 Maintenance. Delete this section of the IEBC.

(a) 101.5.1 Work on individual components or proportions. Delete this section of the IEBC.

(b) 101.5.2 Design values for existing materials and construction. Delete this section of the IEBC.

(6) 101.6 Safeguards during construction. Delete this section of the IEBC.

(7) 101.7 Appendices. Delete this section of the IEBC and substitute: This rule adopts Appendices A and B of the IEBC as they may be amended herein.

(8) 101.8 Correction of violations of other codes. Delete this section of the IEBC.

B. Section 102 - Applicability.

(1) Section 102.1 General. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

(2) Section 102.2 Other laws. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

(3) Section 102.3 Application of references. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

(4) Section 102.4 Referenced codes. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

(a) 102.4.1 Standards and guidelines for structural evaluation. Delete this section of the IEBC.

(b) 102.4.2 Compliance with other codes, standards, and guides. See this section of the IEBC.

(c) 102.4.3 Applicability of the New Mexico construction codes. All references in the IEBC to the international building code shall be deemed references to 14.7.2 NMAC, the 2003 New Mexico commercial building code (NMCBC). All references to the international residential code shall be deemed references to 14.7.3 NMAC, the 2003 New Mexico residential building code (NMRBC). All references to the international plumbing code shall be deemed references to 14.8.2 NMAC, the NMPC. All references to the international mechanical code shall be deemed references to 14.9.2, NMAC, the NMMC. All references to the international electrical code shall be deemed references to 14.10.4 NMAC, the NMEC. All references to the

international energy conservation code shall be deemed references to 14.7.6 NMAC, the 2003 New Mexico energy conservation code (NMECC). All references to the international fuel gas code are deemed references to the NMMC or the LP gas standards.

(5) Section 102.5 Partial invalidity. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

C. Section 103 - Department of building safety. Delete this section of the IEBC.

D. Section 104 - Duties and powers of the code official. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

E. Section 105 - Permits. Delete this section of the IEBC and see 14.5.2 NMAC, Permits.

F. Section 106 - Construction documents. Delete this section of the IEBC and see 14.5.2 NMAC, Permits.

G. Section 107 - Temporary structures and uses. Delete this section of the IEBC and see 14.5.2 NMAC, Permits.

H. Section 108 - Fees. Delete this section of the IEBC and see 14.5.5 NMAC, Fees.

I. Section 109 - Inspections. Delete this section of the IEBC and see 14.5.3 NMAC, Inspections.

J. Section 110 - Certificate of occupancy. Delete this section of the IEBC and see 14.5.3.13 NMAC, Inspections.

K. Section 111 - Service utilities. Delete this section of the IEBC and see 14.5.2 NMAC, Permits; 14.5.1, General Provisions and NMSA 1978, section 60-13-42.

L. Section 112 - Board of appeals. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

M. Section 113 - Violations. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

N. Section 114 - Stop work order. Delete this section of the IEBC and see 14.5.3 NMAC, Inspections.

O. Section 115 - Unsafe buildings and equipment. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

P. Section 116 - Emergency measures. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

Q. Section 117 - Demolition. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

[14.7.7.9 NMAC - N, 7-1-04]

14.7.7.10 CHAPTER 2 DEFINITIONS: See this chapter of the IEBC except as provided below.

A. Section 201.1 Scope. See this section of the IEBC and add the following: If the same term is defined in the New Mexico construction codes and in the IEBC, the term shall have the meaning given it in the New Mexico construction codes.

B. Section 201.3 Terms defined in other codes. Delete this section of the IEBC and substitute: If a term is not defined in this code but is defined in a New Mexico construction code, the term shall have the meaning given it in the New Mexico construction code.

C. Section 202. General definitions. See this section of the IEBC except as follows:

(1) Add the following definition: **CODE OFFICIAL** means the CID general construction bureau chief.

(2) Delete the definition for **CHANGE OF OCCUPANCY** and substitute: means a change in the use of an existing building such that the occupancy classification applicable to the new use is different from the occupancy classification of the former use.

[14.7.7.10 NMAC - N, 7-1-04]

14.7.7.11 CHAPTER 3 CLASSIFICATION OF WORK: See this chapter of the IEBC.

[14.7.7.11 NMAC - N, 7-1-04]

14.7.7.12 CHAPTER 4 REPAIRS: See this chapter of the IEBC.

[14.7.7.12 NMAC - N, 7-1-04]

14.7.7.13 CHAPTER 5 ALTERATIONS - LEVEL 1: See this chapter of the IEBC except as provided below.

A. Section 503.3 Materials and methods. Delete this section of the IEBC and substitute: All new work shall comply with materials and methods requirements in the NMEC.

B. 506.1.5 - Dining areas. Delete the text of this section of the IEBC and substitute: Check-out aisles. Where check-out aisles are altered, at least one of each check-out aisle serving each function shall be made accessible until the number of accessible check-out aisles complies with 14.7.2.19. I, NMAC, which refers to section 1109.12.2 of the international building code.

C. Section 506.2 - Alterations affecting an area containing a primary function. See this section of the IEBC except that the second sentence is amended to provide: "The accessible route to the primary function area shall include

toilet facilities and drinking fountains serving the area of primary function."

[14.7.7.13 NMAC - N, 7-1-04]

14.7.7.14 CHAPTER 6 ALTERATIONS - LEVEL 2: See this chapter of the IEBC except in section 610.1 minimum fixtures.

[14.7.7.14 NMAC - N, 7-1-04]

14.7.7.15 CHAPTER 7 ALTERATIONS - LEVEL 3: See this chapter of the IEBC.

[14.7.7.15 NMAC - N, 7-1-04]

14.7.7.16 CHAPTER 8 CHANGE OF OCCUPANCY: See this chapter of the IEBC.

[14.7.7.16 NMAC - N, 7-1-04]

14.7.7.17 CHAPTER 9 ADDITIONS: See this chapter of the IEBC.

[14.7.7.17 NMAC - N, 7-1-04]

14.7.7.18 CHAPTER 10 HISTORIC BUILDINGS: See this chapter of the IEBC.

[14.7.7.18 NMAC - N, 7-1-04]

14.7.7.19 CHAPTER 11 RELOCATED OR MOVED BUILDINGS: See this chapter of the IEBC.

[14.7.7.19 NMAC - N, 7-1-04]

14.7.7.20 CHAPTER 12 COMPLIANCE ALTERNATIVES: See this chapter of the IEBC except delete section 1201.3.2.

[14.7.7.20 NMAC - N, 7-1-04]

14.7.7.21 CHAPTER 13 CONSTRUCTION SAFEGUARDS: Delete this chapter of the IEBC.

[14.7.7.21 NMAC - N, 7-1-04]

14.7.7.22 CHAPTER 14 REFERENCED STANDARDS: See this chapter of the IEBC.

[14.7.7.22 NMAC - N, 7-1-04]

HISTORY OF 14.7.7 NMAC:
[RESERVED]

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 8 PLUMBING CODES
PART 2 2003 NEW MEXICO
PLUMBING CODE**

14.8.2.1 ISSUING AGENCY: Construction Industries Division (CID) of the Regulation and Licensing Department.

[14.8.2.1 NMAC - Rp, 14 NMAC 9.2.1, 7-1-04]

14.8.2.2 SCOPE: This rule applies to all contracting work performed in New Mexico on or after July 1, 2004, that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date.

[14.8.2.2 NMAC - Rp, 14 NMAC 9.2.1, 7-1-04]

14.8.2.3 STATUTORY AUTHORITY: NMSA 1978 Section 60-13-9 and 60-13-44.

[14.8.2.3 NMAC - Rp, 14 NMAC 9.2.1, 7-1-04]

14.8.2.4 DURATION: Permanent.

[14.8.2.4 NMAC - Rp, 14 NMAC 9.2.1, 7-1-04]

14.8.2.5 EFFECTIVE DATE: July 1, 2004, unless a later date is cited at the end of a section.

[14.8.2.5 NMAC - Rp, 14 NMAC 9.2.1, 7-1-04]

14.8.2.6 OBJECTIVE: The purpose of this rule is to establish minimum standards for all plumbing, as defined in CILA Section 60-12-32, in New Mexico.

[14.8.2.6 NMAC - Rp, 14 NMAC 9.2.1, 7-1-04]

14.8.2.7 DEFINITIONS: [See 14.5.1 NMAC, General Provisions and chapter 2 of the 2003 uniform plumbing code (UPC) as amended in 14.8.2.10 NMAC.]

[14.8.2.7 NMAC - Rp, 14 NMAC 9.2.7, 7-1-04]

14.8.2.8 ADOPTION OF THE 2003 UNIFORM PLUMBING CODE:

A. This rule adopts by reference the 2003 uniform plumbing code and all appendices, as amended by this rule.

B. In this rule, the internal numbering of each provision corresponds with the numbering of the 2003 uniform plumbing code.

[14.8.2.8 NMAC - Rp, 14 NMAC 9.2.8 and 8A, 7-1-04]

14.8.2.9 CHAPTER 1 ADMINISTRATION:

A. 101.0 - Title, Scope and General.

(1) 101.1 Title. Delete this section of the UPC and substitute: This code

shall be known as the 2003 New Mexico plumbing code (NMPC).

(2) 101.2 Purpose. Delete this section of the UPC and see 14.8.2.6 NMAC.

(3) 101.3 Plans Required. Delete this section of the UPC except as provided in 14.5.2 NMAC, Permits.

(4) 101.4 Scope.

(a) 101.4.1 Delete this section of the UPC and see 14.8.2.2 NMAC.

(i) 101.4.1.1 Repairs and Alterations. See this section of the UPC.

(ii) 101.4.1.2 Maintenance. Delete this section of the UPC.

(iii) 101.4.1.3 Existing Construction. Delete this section of the UPC.

(iv) 101.4.1.4 Conflicts between Codes. Delete this section of the UPC and see 14.5.1 General Provisions.

(b) 101.4.2 See this section of the UPC.

(c) 101.4.3 Appendices. Delete this section of the UPC except as provided in 14.8.2.27 NMAC, below.

(5) 101.5 Application to Existing Plumbing System. See this section of the UPC.

B. 102.0 - Organization and Enforcement.

(1) 102.1 Authority Having Jurisdiction. Delete this section of the UPC.

(2) 102.2 Duties and Powers of the Authority Having Jurisdiction.

(a) 102.2.1 Appointments. Delete this section of the UPC and see CILA Section 60-13-8 through 60-13-41 and NMSA 1978 Section 9-16-7.

(b) 102.2.2 Right of Entry. Delete this section of the UPC and see CILA Section 60-13-42.

(c) 102.2.3 Stop Orders. Delete this section of the UPC and see 14.5.2 NMAC, Permits.

(d) 102.2.4 Authority to Disconnect Utilities in Emergencies. Delete this section of the UPC and see CILA Section 60-13-42.

(e) 102.2.5 Authority to Condemn. Delete this section of the UPC and see 14.5.1 NMAC, General Provisions.

(f) 102.2.6 Liability. Delete this section of the UPC and see CILA Section 60-13-26.

(3) 102.3 Violations and Penalties. Delete this section of the UPC and see CILA Section 60-13-1 et seq., and 14.5.3, Inspections.

C. 103.0 - Permits and Inspections.

(1) 103.1 Permits Delete this section of the UPC except as provided in

14.5.2 NMAC, Permits.

(2) 103.2 Application for Permit. Delete this section of the UPC except as provided in 14.5.2 NMAC, Permits.

(3) 103.3 Permit Issuance. Delete this section of the UPC except as provided in 14.5.2 NMAC, Permits

(4) 103.4 Fees. Delete this section of the UPC and see 14.5.5 NMAC, Fees.

(5) 103.5 Inspections. Delete this section except as provided in 14.5.3 NMAC, Inspections.

(6) 103.6 Connection Approval. Delete this section of the UPC and see 14.5.3 NMAC, Inspections.

(7) 103.7 Unconstitutionality. Delete this section of the UPC and see 14.5.1 NMAC, General Provisions.

(8) 103.8 Validity. Delete this section of the UPC and see 14.5.1 NMAC, General Provisions.

(9) Table 1.1 Plumbing Permit Fees. Delete plumbing permit fees, table 1-1, from the UPC.

[14.8.2.9 NMAC - Rp, 14. NMAC 9.2.1.100, 7-1-04]

14.8.2.10 CHAPTER 2 DEFINITIONS: See this chapter of the UPC, except as provided below.

A. 203.0 Authority having jurisdiction. Delete the text of this definition and substitute: The authority having jurisdiction is the construction industries division (CID) and the bureau chief of the mechanical and plumbing bureau of CID.

B. 214.0 Listing agency. See this definition in the UPC and section 60-13-44.B. of the CILA.

[14.8.2.10 NMAC - N, Rp, 14 NMAC 9.2.1.200-1-04]

14.8.2.11 CHAPTER 3 GENERAL REGULATIONS: See this chapter of the UPC.

[14.8.2.11 NMAC - Rp, 14 NMAC 9.2.1.300, 7-1-04]

14.8.2.12 CHAPTER 4 PLUMBING FIXTURES AND FIXTURE FITTINGS: See this chapter of the UPC except as provided below.

A. 413.1 Fixture count. See this section of the UPC except delete the reference to "Table 4.1" and substitute: the 2003 New Mexico building code, 14.7.2.37.B NMAC, Minimum Plumbing Facilities.

B. 413.2 Access to fixtures. Delete this section of the UPC.

C. 413.3 Separate facilities. Delete this section of the UPC.

D. 413.4.3 Delete this section of the UPC.

E. 413.5 Facilities in

mercantile and business occupancies serving customers. Delete this section of the UPC.

F. 413.6 Food service establishments. Delete this section of the UPC.

G. 413.7 Toilet facilities for workers. Delete this section of the UPC.

H. 414.0 Fixtures for the handicapped. Delete this section of the UPC.

I. Table 4-1 Minimum plumbing facilities. Delete this table of the UPC.

[14.8.2.12 NMAC - Rp, 14 NMAC 9.2.I.400, 7-1-04]

14.8.2.13 CHAPTER 5 WATER HEATERS PART I: See this chapter of the UPC except as provided below.

A. Section 501.0 General. See this section of the UPC except delete the following sentence: "The minimum capacity for water heaters shall be in accordance with the first hour rating listed in Table 5-1."

B. Section 508.14 Installation in residential garages. See this section of the UPC except delete the words "unless listed as flammable vapor ignition resistant" at the end of the section.

C. Section 509.3 Access to equipment on roofs.

(1) 509.3.1 See this section of the UPC.

(2) 509.3.2 See this section of the UPC except after the words "in height" add the following: except those designated as R-3 occupancies.

(3) 509.3.3 See this section of the UPC.
[14.8.2.13 NMAC - Rp, 14 NMAC 9.2.I.500, 7-1-04]

14.8.2.14 CHAPTER 5 WATER HEATERS PART II - SIZING OF VENTING SYSTEMS SERVING APPLIANCES EQUIPPED WITH DRAFT HOODS, CATEGORY I APPLIANCES, AND APPLIANCES LISTED FOR USE WITH TYPE B VENTS: See this chapter of the UPC.

[14.8.2.14 NMAC - Rp, 14 NMAC 9.2.I.500, 7-1-04]

14.8.2.15 CHAPTER 6 WATER SUPPLY AND DISTRIBUTION: See this chapter of the UPC.

[14.8.2.15 NMAC - Rp, 14 NMAC 9.2.I.600, 7-1-04]

14.8.2.16 CHAPTER 7 SANITARY DRAINAGE PART I - DRAINAGE SYSTEMS: See this chapter

of the UPC except delete the text of section 704.3 and substitute the following: Pot sinks, scullery sinks, dishwashing sinks, silverware sinks, commercial dishwashing machines, silverware washing machines, and other similar fixtures shall not be connected directly to the drainage system. Such equipment or fixtures shall be drained by means of indirect waste pipes, as defined in chapter 2 of the UPC, and all wastes drained by them shall discharge through an airgap into an open floor sink or other approved type receptor that is properly connected to the drainage system. Food waste disposal units shall be connected directly to the drainage system. A floor drain shall be provided adjacent to the disposal unit, and the disposal unit shall be connected on the sewer side of the floor drain trap, provided that no other drainage line is connected between the floor drain waste connection and the disposal unit drain. The floor drain shall be trapped and vented as required in this code.

[14.8.2.16 NMAC - Rp, 14 NMAC 9.2.I.700, 7-1-04]

14.8.2.17 CHAPTER 7 SANITARY DRAINAGE PART II - BUILDING SEWERS: See this chapter of the UPC.

[14.8.2.17 NMAC - Rp, 14 NMAC 9.2.I.700, 7-1-04]

14.8.2.18 CHAPTER 8 INDIRECT WASTES: See this chapter of the UPC.

[14.8.2.18 NMAC - Rp, 14 NMAC 9.2.I.800, 7-1-04]

14.8.2.19 CHAPTER 9 VENTS: See this chapter of the UPC.

[14.8.2.19 NMAC - Rp, 14 NMAC 9.2.I.900, 7-1-04]

14.8.2.20 CHAPTER 10 TRAPS AND INTERCEPTORS: See this chapter of the UPC.

[14.8.2.20 NMAC - Rp, 14 NMAC 9.2.I.1000, 7-1-04]

14.8.2.21 CHAPTER 11 STORM DRAINAGE: See this chapter of the UPC except after the words "Subsoil drains shall be provided" add the following: as required by the NMCBC, 14.7.2 NMAC.
[14.8.2.21 NMAC - Rp, 14 NMAC 9.2.I.1100, 7-1-04]

14.8.2.22 CHAPTER 12 FUEL PIPING: See this chapter of the UPC except as provided below.

A. 1209.5.2.3 Delete this section of the UPC and substitute: Copper and brass pipe shall not be used. Threaded aluminum alloy pipe shall not be used with

gases corrosive to such material.

B. 1209.5.3.2 Delete this section of the UPC and substitute: Copper and brass pipe shall not be used.

C. 1211.1.2 Protection against damage. Delete subsection (A) of this section of the UPC and substitute the following: Underground piping systems shall be installed with a minimum of 18 inches (460 mm) of cover. Where a minimum of 18 inches (460 mm) of cover cannot be provided, the pipe shall be installed in conduit or bridged (shielded).

D. 1211.9.3 Emergency shutoff valves. See this section of the UPC except delete the following: "The emergency shutoff valves shall be plainly marked as such and their locations posted as required by the authority having jurisdiction."

E. 1212.7 Sediment trap. See this section of the UPC except delete the first sentence and substitute: If a sediment trap, which is not incorporated as a part of the gas utilization equipment, is installed, it shall be installed at the time the equipment is installed and as close to the inlet of the equipment as is practical.

F. 1213.0 Liquefied petroleum gas facilities and piping. Delete this section of the UPC and substitute the following: Liquefied petroleum gas facilities shall comply with 19.15.40 NMSA, liquefied petroleum gas standards, and NMSA 1978 70-5-1 et seq., liquefied and compressed gasses.

[14.8.2.22 NMAC - Rp, 14 NMAC 9.2.I.1200, 7-1-04]

14.8.2.23 CHAPTER 13 HEALTH CARE FACILITIES AND MEDICAL GAS AND VACUUM SYSTEMS PART I - SPECIAL REQUIREMENTS FOR HEALTH CARE FACILITIES: [Reserved]

[14.8.2.23 NMAC - Rp, 14 NMAC 9.2.I.1300, 7-1-04]

14.8.2.24 CHAPTER 13 HEALTH CARE FACILITIES AND MEDICAL GAS AND VACUUM SYSTEMS PART II - MEDICAL GAS AND VACUUM SYSTEMS: See this chapter of the UPC.

[14.8.2.24 NMAC - Rp, 14 NMAC 9.2.I.1300, 7-1-04]

14.8.2.25 CHAPTER 14 MANDATORY REFERENCED STANDARDS: See this chapter of the UPC.

[14.8.2.25 NMAC - Rp, 14 NMAC 9.2.I.1400, 7-1-04]

14.8.2.26 CHAPTER 15 FIRESTOP PROTECTION: See this chapter of the UPC.

[14.8.2.26 NMAC - Rp, 14 NMAC 9.2.I.1500, 7-1-04]

14.8.2.27 APPENDICIES: See this chapter of the UPC except delete appendix G and add the following to appendix L 1.3: All alternate plumbing systems must be pre-approved in writing by the authority having jurisdiction.

[14.8.2.27 NMAC - Rp, 14 NMAC 9.2.I.1600, 7-1-04]

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 9 MECHANICAL
CODES
PART 2 2003 NEW MEXICO
MECHANICAL CODE**

14.9.2.1 ISSUING AGENCY: Construction Industries Division (CID) of the Regulation and Licensing Department.
[14.9.2.1 NMAC - Rp, 14 NMAC 9.2.1, 7-1-04]

14.9.2.2 SCOPE: This rule applies to all contracting work performed in New Mexico on or after July 1, 2004, that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date.
[14.9.2.2 NMAC - Rp, 14 NMAC 9.2.2, 7-1-04]

14.9.2.3 STATUTORY AUTHORITY: NMSA 1978 Sections 60-13-9 and 60-13-44.
[14.9.2.3 NMAC - Rp, 14 NMAC 9.2.3, 7-1-04]

14.9.2.4 DURATION: Permanent.
[14.9.2.4 NMAC - Rp, 14 NMAC 9.2.4, 7-1-04]

14.9.2.5 EFFECTIVE DATE: July 1, 2004, unless a later date is cited at the end of a section.
[14.9.2.5 NMAC - Rp, 14 NMAC 9.2.5, 7-1-04]

14.9.2.6 OBJECTIVE: The purpose of this rule is to establish minimum standards for the installation, repair, and replacement of mechanical systems including equipment, appliances, fixtures, fittings and/or appurtenances including ventilating,

heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy related systems in New Mexico.

[14.9.2.6 NMAC - Rp, 14 NMAC 9.2.6, 7-1-04]

14.9.2.7 DEFINITIONS:
[See 14.5.1 NMAC, General Provisions and chapter 2 of the 2003 uniform plumbing code (UPC) as amended in 14.9.2.10 NMAC.]

[14.9.2.7 NMAC - Rp, 14 NMAC 9.2.7, 7-1-04]

14.9.2.8 ADOPTION OF THE 2003 UNIFORM MECHANICAL CODE:

A. This rule adopts by reference the 2003 uniform mechanical code, as amended by this rule.

B. In this rule, each provision is numbered to correspond with the numbering of the 2003 uniform mechanical code.

[14.9.2.8 NMAC - Rp, 14 NMAC 9.2.8.A & 14 NMAC 11.3, 7-1-04]

14.9.2.9 CHAPTER 1 ADMINISTRATION.

A. Part I - General.

(1) 101.0 Title. Delete this section of the UMC and substitute: This code shall be known as the 2003 New Mexico mechanical code (NMMC).

(2) 102.0 Purpose. Delete this section of the UMC and see 14.9.2.6 NMAC.

(3) 103.0 Scope. Delete this section of the UMC and see 14.9.2.2 NMAC.

(4) 104.0 Application to Existing Mechanical Systems. See this section of the UMC.

(5) 105.0 Alternate Materials and Methods of Construction. Delete this section of the UMC and see 14.5.1 NMAC, General Provisions.

(6) 106.0 Modifications. Delete this section of the UMC and see 14.5.1 NMAC, General Provisions.

(7) 107.0 Tests. See this section of the UMC.

B. Part II - Organization and Enforcement.

(1) 108.0 Powers and Duties of the Authority Having Jurisdiction.

(a) 108.1 General. Delete this section of the UMC and see CILA.

(b) 108.2 Deputies. Delete this section of the UMC and see CILA Sections 60-13-8 and 60-13-41 and NMSA 1978 Section 9-16-7.

(c) 108.3 Right of Entry. Delete this section of the UMC and see CILA Section 60-13-42.

(d) 108.4 Stop Orders. Delete

this section of the UMC and see 14.5.2 NMAC, Permits.

(e) 108.5 Authority to Disconnect Utilities in Emergencies. Delete this section of the UMC and see CILA Section 60-13-42.

(f) 108.6 Authority to Condemn Equipment. Delete this section of the UMC and see 14.5.1 NMAC, General Provisions.

(g) 108.7 Connection After Order to Disconnect. Delete this section of the UMC and see 14.5.1 NMAC, General Provisions.

(h) 108.8 Liability. Delete this section of the UMC and see CILA Section 60-13-26.

(i) 108.9 Cooperation of Other Officials and Officers. Delete this section of the UMC.

(2) 109.0 Unsafe Equipment. Delete this section of the UMC and see 14.5.1 NMAC, General Provisions.

(3) 110.0 Board of Appeals. Delete this section of the UMC and see 14.5.1 NMAC, General Provisions.

(4) 111.0 Violations. Delete this section of the UMC and see CILA Section 60-13-1 et seq., and 14.5.3 NMAC, Inspections.

C. Part III - Permits and Inspections.

(1) 112.0 Permits. See 14.5.2 NMAC, Permits.

(2) 113.0 Application for Permit. Delete this section of the UMC and see 14.5.2 NMAC, Permits.

(3) 114.0 Permit Issuance. Delete this section of the UMC and see 14.5.2 NMAC, Permits.

(4) 115.0 Fees. Delete this section of the UMC and see 14.5.5 NMAC, Fees.

(5) 116.0 Inspections. Delete this section of the UMC and see 14.5.3 NMAC, Inspections.

(6) 117.0 Connection approval. Delete this section of the UMC and see 14.5.2 NMAC, Permits.

(7) Table 1.1 Mechanical Permit Fees. Delete this table from the UMC and see 14.5.5, NMAC, Fees.

[14.9.2.9 NMAC - Rp, 14 NMAC 9.2.II.100, 7-1-04]

14.9.2.10 CHAPTER 2 DEFINITIONS: See this chapter of the UMC except as provided below.

A. 203.0 Authority having jurisdiction. Delete the text of this definition and substitute: The authority having jurisdiction is the construction industries division (CID) and the bureau chief of the mechanical and plumbing bureau of CID.

B. 214.0 Listed and listing. See this definition in the UPC and add

the following provision at the end of the definition: A manufacturer may select the independent certification organization of its choice to certify its products, provided that the certification organization has been accredited by the American national standards institute (ANSI), or another certification organization that CID has approved in writing.

[14.9.2.10 NMAC - Rp, 14 NMAC 9.2.II.200, 7-1-04]

14.9.2.11 CHAPTER 3 GENERAL REQUIREMENTS: See this chapter of the UMC except delete the text of section 305.1, Accessibility for service, and substitute: All gas utilization equipment shall be located with respect to building construction and other equipment so as to permit access to the gas utilization equipment. Sufficient clearance shall be maintained to permit cleaning of heating surfaces; the replacement of filters, blowers, motors, burners, controls and vent connections; the lubrication of moving parts where necessary; the adjustment and cleaning of burners and pilots; and the proper functioning of explosion vents, if provided. Access openings and passageways to equipment located in attics and under-floor spaces shall be provided so the largest piece of equipment can be removed, but in no case less than 22 inches by 30 inches (599 mm by 726 mm). For attic installation, the passageway and servicing area adjacent to the equipment shall be floored. The distance from the passageway access to the equipment shall not exceed 20 feet (6.096 m). A permanent electric outlet and lighting fixture shall be provided at or near the equipment. The light shall be controlled by a switch located at the required passageway opening. Equipment located in under-floor spaces shall have a clearance of at least 6 inches (152 mm) from the ground. Excavation necessary to install such equipment shall extend to a depth of 6 inches (152 mm) below, and 12 inches (305 mm) on all sides of the equipment, except the control side, which shall have 30 inches (762 mm).

[14.9.2.11 NMAC - Rp, 14 NMAC 9.2.II.300, 7-1-04]

14.9.2.12 CHAPTER 4 VENTILATION AIR SUPPLY:

A. 401.0 General. See this section of the UMC.

B. 402.0 Make up air. See this section of the UMC.

C. 403.0 General. See this section of the UMC.

D. 404.0 Location. See this section of the UMC.

E. 405.0 Access, inspection and repair. See this section of the

UMC.

F. 406.0 Installation. See this section of the UMC.

G. 407.0 Ventilation requirements – scope. Buildings and structures enclosing spaces intended for human occupancy shall be provided with ventilation in accordance with this rule.

H. 408.0 Ventilation.

(1) 408.1 General. Enclosed portions of buildings and structures in occupancies, other than the locations specified in sections 408.3 through 408.7, shall be provided with natural ventilation by means of openable exterior openings with an area of not less than 1/20 of the total floor area of the enclosed portion of the building or structure or shall be provided with a mechanically operated ventilating system. The mechanically operated ventilating system shall be capable of supplying ventilation air in accordance with Table 4-1 during such time as the building or space is occupied.

(2) 408.2 Applicability. Outside air quantities listed in Table 4-1 are minimum requirements and are not necessarily adequate for all occupancy conditions.

(3) 408.3 Toilet rooms. Toilet rooms shall be provided with a fully openable exterior window at least 3 square feet (.27m²) in area; a vertical duct not less than 100 square inches (.064516m²) in area for the first toilet facility, with 50 additional square inches (.032m²) for each additional facility; or a mechanically operated exhaust system capable of exhausting 50 cubic feet of air per minute (23.6 L/s) for each water closet or urinal installed in the toilet room. Such systems shall be connected directly to the outside, and the point of discharge shall be at least 3 feet (914mm) from any openable window.

(4) 408.4 Ventilation in hazardous locations. Rooms, areas or spaces in which explosive, corrosive, combustible, flammable, or highly toxic dusts, mists, fumes, vapors or gasses are or may be emitted due to the processing, use, handling, or storage of materials shall be mechanically ventilated as required by the fire code and other provisions of this code. Emissions generated at work stations shall be confined to the area in which they are generated as specified in the fire code and other provisions of this code. Supply and exhaust openings shall be in accordance with this code. Exhaust air contaminated by highly toxic material shall be treated in accordance with the fire code.

(5) 408.5 Group B occupancies. In groups B, F, M and S occupancies, or portions thereof, where Class I, II or III-A liquids are used, sufficient mechanical exhaust shall be provided to produce six air changes per hour. Such mechanical exhaust

shall be taken from a point at or near the floor level.

(6) 408.6 Group S parking garages. In parking garages, other than open parking garages as defined in the NMCBC, that are used for storing or handling of automobiles operating under their own power and on loading platforms in bays terminals, ventilation shall be provided at a level sufficient to exhaust a minimum of .75 cubic feet of air per minute (cfm) per square foot (.354 L/s/m²) of gross floor area. An alternate ventilation system may be approved by the authority having jurisdiction upon demonstration to its satisfaction that the alternate system is designed to, and will, exhaust a minimum of 14,000 cfm (6608 L/s) for each operating vehicle and is based on the anticipated, instantaneous movement rate of vehicles, but not less than 2.5% of the garage capacity (or one vehicle). Whichever method is used, automatic carbon monoxide-sensing device may be employed to modulate the ventilation system to maintain a maximum average concentration of carbon monoxide of 50 parts per million during any eight-hour period, with a maximum concentration of not greater than 200 parts per million for a period not exceeding one hour.

(a) Exception. In repair garages and motor vehicle fuel-dispensing stations without lubrication pits, in storage garages, and in aircraft hangars, the ventilating system may be omitted when, in the opinion of the authority having jurisdiction, the building is supplied with unobstructed openings to the outer air that are sufficient to provide the necessary ventilation.

(b) Positive air pressure. Connecting offices, waiting rooms, ticket booths and similar uses shall be supplied with conditioned air under positive pressure.

(7) 408.7 Group S repair garages. In buildings used for the repair of handling of motor vehicles operating under their own power, mechanical ventilation shall be provided at a level sufficient to exhaust a minimum of 1.0 cfm per square foot (5.1 L/s/m²) of floor area. Each engine repair stall shall be equipped with an exhaust pipe extension duct, extending to the outside of the building. Ducts of 10 feet (3048 mm) in length shall mechanically exhaust 300 cfm (141.6 L/s). Connecting offices and waiting rooms shall be supplied with conditioned air under positive pressure. An exception to this requirement exists as follows: In repair garages and aircraft hangers, the authority with jurisdiction shall authorize the omission of such ventilating equipment when in its opinion the building is supplied with unobstructed openings to the outer air that are well distributed and sufficient in size to provide the

necessary ventilation. Doors providing adequate cross ventilation may satisfy this requirement.

(8) 408.8 Group R occupancies.

(a) Guest rooms. Each guest room and other habitable room within a dwelling unit or congregate residence shall be provided with natural ventilation by means of openable exterior openings having an area of not less than 1/20 of the floor area of such room or 5 square feet (.46m²), whichever is greater. In lieu of required exterior openings for natural ventilation, a mechanical ventilating system that is capable of providing quantities in accordance with Table 4-1 may be provided.

(b) Bathrooms, etc. Each bathroom, water closet compartment, laundry room, or similar room within a dwelling unit shall be provided with natural ventilation by means of openable exterior openings have an area not less than 1/20 of the floor area of such rooms with a minimum of 1-1/2 square feet (.14 m²), whichever is greater. Laundry rooms in group R-3 occupancies or laundry rooms within dwelling units in group R-2 occupancies are excepted from this requirement. A mechanical ventilation system connected directly to the outside that are capable of providing exhaust air quantities in accordance with Table 4-1 may be used in bathrooms containing a bathtub or shower or combination thereof, in laundry rooms, and in similar rooms. Such systems shall be connected directly to the outside and the point of discharge shall be at least 3 feet (914 mm) from any opening that allows air entry into occupied portions of the building. Bathrooms that contain only a water closet, lavatory or combination thereof, and similar rooms, may be ventilated with an approved mechanical recirculating fan or similar device designated to remove odors from the air.

Table 4-1

<u>Occupancy Group, Category & Application</u>	<u>Outdoor Air cfm per square foot</u>
Group A (Assembly)	
<u>Food & Beverage Service category</u>	
Bars, cocktail lounges*	1.00
Cafeterias, fast food*	0.50
Dining rooms*	0.50
Kitchens	0.30
<u>Sports & Amusement category</u>	
Assembly rooms	0.50
Ballrooms & Discothèques (smoking)	1.67
(nonsmoking)	0.50
Bowling alleys (seating areas*)	1.67
Conference rooms	0.20
Game rooms*	0.83
Ice arenas (playing areas)	0.10
Gymnasium floors & playing areas	0.30
Spectator areas	0.50
Swimming pools (pool & deck areas)	0.50
<u>Theater category</u>	
Auditorium	0.50
Lobbies	0.18
Stages & studios	0.50
Ticket booths	0.25
<u>Transportation category</u>	
Platforms	1.00
Waiting rooms	0.20
Group B (Business)	
Bank vaults (over 200 square feet)	0.08
(under 200 square feet)	0.00
Conference rooms	0.20
Corridors & utility spaces	0.50
Duplicating & printing areas	0.20
Lockers & dressing rooms	0.20
Office spaces	0.08
Pharmacies	0.10
Photo studios	0.10
Public restrooms (per water closet or urinal)	50 cfm
Reception areas	0.20
Smoking lounges	1.00
Telecommunications & data entry spaces	0.25

Group E (Educational)

Auditoriums	0.50
Classrooms	0.22
Corridors	0.00
Laboratories & art rooms	0.25
Libraries	0.15
Locker rooms	0.25 exhaust
Music rooms	0.30
Smoking lounges	1.00
Training shops (wood, metal & automotive)	0.25

Group F (Factories)

Coin operated dry cleaners	0.30
Coin operated laundries	0.30
Commercial dry cleaners	0.90
Commercial laundries	0.25
Pick up areas (laundry & dry cleaner)	0.12

Group I (Institutional)Hospital, Nursing Home & Child Care category

Autopsy rooms	0.50
Medical procedure rooms	0.30
Operating rooms	0.60
Patient rooms	0.25
Physical therapy rooms	0.30
Recovery & intensive care rooms	0.30

Correctional Facility category

Cells & day rooms	.10 cfm/person
Dining halls	.20 cfm/person
Guard stations	0.20
Public restrooms (per water closet or urinal)	50 cfm

Group M (Mercantile)Store & Showroom category

All levels (includes basements)	0.10
Malls & arcades	0.10
Dressing rooms	0.10
Shipping & receiving areas	0.10
Storage rooms	0.10
Smoking lounges	1.00
Warehouses	0.05

Specialty Shop category

Nail salons	0.22+200cfm/station
Beauty & barber shops	0.22
Clothiers & fabric shops	0.12
Drug stores	0.10
Florists	0.10
Food stores	0.80
Pet shops (animal housing areas)	1.00
Reducing salon & exercise rooms	0.25

Group R (Residential)

Hotel, Motel & Dormitory category

Assembly rooms	0.5
Bedrooms	30 cfm/room
Conference rooms	0.2
Dormitory sleeping rooms	15 cfm/bed
Living rooms	30 cfm/room
Lobbies	0.15
Private bathrooms (intermittent exhaust)	35 cfm/room

Apartment, Lodging House & Individual Dwelling category

Bathrooms	50cfm intermittent or 20 cfm continuous 100cfm intermittent or 25cfm continuous
Kitchens	
Living spaces	0.30

Group S (Storage)

Enclosed parking garages	0.75
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[14.9.2.12 NMAC - Rp, 14 NMAC 9.2.II.400, 7-1-04]

14.9.2.13 CHAPTER 5 EXHAUST SYSTEMS: See this chapter of the UMC except as provided below.

A. 504.3.2.2 Length limitation. See this section of the UMC except delete everything after the words “total combined horizontal and vertical length” and substitute: of 23 feet (7m) with two ninety-degree (90°) elbows and a full 4 inch (102 mm) vent cap opening, or 33 feet (10 m) with one ninety-degree (90°) elbow and a full 4 inch (102 mm) vent cap opening. Ten feet (3.05 m) shall be deducted for each additional ninety-degree (90°) elbow in excess of the number allowed.

B. 507.6 Hoods required. Add this new section: Hoods shall be installed at or above all commercial-type deep fat fryers, broilers, fry grills, steam-jacketed kettles, hot-top ranges, ovens, barbecues, rotisseries, dishwashing machines and similar equipment that produce comparable amounts of steam, smoke, grease, or heat in a food-processing establishment. For the purposes of this section, a food-processing establishment includes any building or portion thereof used for the processing of food, but does not include a dwelling unit.

C. 511.3 Replacement air. See this section of the UMC except add the following: Windows and doors shall not be used for the purpose of providing replacement air. The exhaust and replacement air systems shall be connected by an electrical interlocking switch.

[14.9.2.13 NMAC - Rp, 14 NMAC 9.2.II.500, 7-1-04]

14.9.2.14 CHAPTER 6 DUCT SYSTEMS: See this section of the UMC except add the following to section 609.0, Automatic shutoffs: (6) Automatic shutoffs are not required on evaporative coolers that derive all of their air from outside the building.

[14.9.2.14 NMAC - Rp, 14 NMAC 9.2.II.600, 7-1-04]

14.9.2.15 CHAPTER 7 COMBUSTION AIR: See this chapter of the UMC.

[14.9.2.15 NMAC - Rp, 14 NMAC 9.2.II.700, 7-1-04]

14.9.2.16 CHAPTER 8 CHIMNEYS AND VENTS: See this chapter of the UMC.

[14.9.2.16 NMAC - Rp, 14 NMAC 9.2.II.800, 7-1-04]

14.9.2.17 CHAPTER 9 INSTALLATION OF SPECIFIC EQUIPMENT: See this chapter of the UMC except as provided below.

A. 904.10.3 Access to equipment on roofs.

(1) 904.10.3.1 See this section of the UMC.

(2) 904.10.3.2 See this section of the UMC except after the words “in height” add the following: except those designated as R-3 occupancies.

(3) 509.10.3.3 See this section of the UMC.

(4) 509.10.3.4 See this section of the UMC.

B. Installation. See this section of the UMC except add this new subsection: (F) Vented wall furnaces designed to be installed in a nominal 4 inch (102 mm) will shall be not less than 6 inches (152 mm) from an inside room corner unless listed for lesser clearances. Vented wall furnaces shall be located so that a door cannot swing within 12 inches (305 mm) of an air inlet or air out let of such furnace measured at right angles to the opening. Doorstops or door closers shall not be installed to obtain this clearance. Except when specifically approved vented wall furnaces shall be installed at least 18 inches (457 mm) below any structural projection. This requirement includes doors and windows which could project over the furnace.
[14.9.2.17 NMAC - Rp, 14 NMAC 9.2.II.900, 7-1-04]

14.9.2.18 CHAPTER 10 STEAM AND HOT WATER BOILERS:

See this chapter of the UMC.
[14.9.2.18 NMAC - Rp, 14 NMAC 9.2.II.1000, 7-1-04]

14.9.2.19 CHAPTER 11 REFRIGERATION:

See this chapter of the UMC.
[14.9.2.19 NMAC - Rp, 14 NMAC 9.2.II.1100, 7-1-04]

14.9.2.20 CHAPTER 12 HYDRONICS:

See this chapter of the UMC except as provided below.

A. 1201.2.8.3 Pressure test. Except delete the first sentence and substitute: Piping shall be tested with a hydrostatic pressure or an air test of not less than 1.5 times operating pressure.

B. 1201.3.6.3 Pressure test. Except delete the first sentence and substitute: Piping shall be tested with a hydrostatic pressure or an air test of not less than 1.5 times operating pressure.

C. 1201.4.1.1. PEX tubing. See this section of the UMC except add the following: Tubing shall be manufactured with an approved oxygen diffusion barrier.

[14.9.2.20 NMAC - Rp, 14 NMAC 9.2.II.1200, 7-1-04]

14.9.2.21 CHAPTER 13 FUEL PIPING:

See this chapter of the UMC except as provided below.

A. 1309.5.2.3 Copper and brass pipe shall not be used. Aluminum alloy pipe shall not be used with gases corrosive to such material.

B. 1311.1.2. Protection against damage. Delete the text of subsection (A) of this section of the UMC, cover requirements, and substitute: Underground piping systems shall be installed with a minimum of 18 inches (460 mm) of cover. Where 18 inches (460 mm) of cover cannot be provided, the pipe shall be installed in conduit or bridged (shielded).

C. 1311.9.3 Emergency shutoff valves. See this section of the UMC except delete the following: The emergency shutoff valves shall be plainly marked as such and their locations posted as required by the authority having jurisdiction.

D. 1312.7 Sediment trap. See this section of the UPC except delete the first sentence and substitute: If a sediment trap, which is not incorporated as a part of the gas utilization equipment, is installed, it shall be installed at the time the equipment is installed and as close to the inlet of the equipment as is practical.

E. 1313.0 Liquefied petroleum gas facilities and piping. Delete this section of the UPC and substitute the following: Liquefied petroleum gas facilities shall comply with 19.15.40 NMSA, liquefied petroleum gas standards, and NMSA 1978 70-5-1 et seq., liquefied and compressed gasses.
[14.9.2.21 NMAC - Rp, 14 NMAC 9.2.II.1300, 7-1-04]

14.9.2.22 CHAPTER 14 PROCESS PIPING: See this chapter of the UMC.
[14.9.2.22 NMAC - Rp, 14 NMAC 9.2.II.1400, 7-1-04]

14.9.2.23 CHAPTER 15 SOLAR SYSTEMS: See this chapter of the UMC.
[14.9.2.23 NMAC - Rp, 14 NMAC 9.2.II.1500, 7-1-04]

14.9.2.24 CHAPTER 16 STATIONARY FUEL CELL POWER PLANTS: See this chapter of the UMC.
[14.9.2.24 NMAC - N, 7-1-04]

14.9.2.25 CHAPTER 17 STANDARDS: See this chapter of the UMC.
[14.9.2.25 NMAC - Rp, 14 NMAC 9.2.II.1600, 7-1-04]

14.9.2.26 APPENDICIES: See this section of the UMC.
[14.9.2.26 NMAC - N, 7-1-04]

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 10 ELECTRICAL
CODES
PART 4 STATE OF NEW
MEXICO ELECTRICAL CODE**

14.10.4.1 ISSUING AGENCY: The Construction Industries Division of the Regulation and Licensing Department.
[14.10.4.1 NMAC - Rp, 14.10.4.1 NMAC, 7-1-04]

14.10.4.2 SCOPE: This rule applies to all contracting work performed in New Mexico on or after July 1, 2004, that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date.
[14.10.4.2 NMAC - Rp, 14.10.4.2 NMAC, 7-1-04]

14.10.4.3 STATUTORY AUTHORITY: NMSA 1978 Section 60-13-9.
[14.10.4.3 NMAC - Rp, 14.10.4.3 NMAC, 7-1-04]

14.10.4.4 DURATION: Permanent.
[14.10.4.4 NMAC - Rp, 14.10.4.4 NMAC, 7-1-04]

14.10.4.5 EFFECTIVE DATE: July 1, 2004, unless a later date is cited at the end of a section.
[14.10.4.5 NMAC - Rp, 14.10.4.5 NMAC, 7-1-04]

14.10.4.6 OBJECTIVE: The purpose of this rule is to establish minimum standards for electrical wiring, as defined in CILA Section 60-13-32, in New Mexico.
[14.10.4.6 NMAC - Rp, 14.10.4.6 NMAC, 7-1-04]

14.10.4.7 DEFINITIONS: [Reserved]

14.10.4.8 ADOPTION OF THE 2002 NATIONAL ELECTRICAL CODE:

A. This rule adopts by reference the 2002 national electrical code, as amended by this rule.

B. In this rule, each provision is numbered to correspond with the

numbering of the 2002 national electrical code.

[14.10.4.8 NMAC - Rp, 14.10.3.8 NMAC, 7-1-04]

14.10.4.9 ADMINISTRATION AND ENFORCEMENT:

A. Inspectors. See 14.6.5 NMAC, Inspectors.

B. Disconnect Orders. See CILA Section 60-13-42.

C. Stop Orders. See 14.5.3 NMAC, Inspections.

D. Unsafe Wiring. See 14.5.1 NMAC, General Provisions.

E. Electrical Plan Review. See 14.5.2 NMAC, Permits.

F. Electrical Permit. See 14.5.2 NMAC, Permits.

G. Electrical Inspections.
(1) **Inspections Required:** See 14.5.3 NMAC, Inspections.

(2) **Electrical Customer-Owned Distribution System Requirements.** See 14.5.3 NMAC, Inspections.

[14.10.4.9 NMAC - Rp, 14.10.4.8 NMAC, 7-1-04]

14.10.4.10 AMENDMENTS TO THE 2002 NATIONAL ELECTRICAL CODE. The following amendments are made to the 2002 national electrical code. The article and section numbering is keyed to the national electrical code format.

A. Article 110. Requirements for Electrical Installations.

(1) 110.2 Add: Listing and Labeling by a nationally recognized testing laboratory as listed by the occupation safety and health administration.

(2) Electrical wiring, equipment, or material that is not listed and labeled and a (UL) safety standard exists shall be certified by a nationally recognized testing laboratory approved by the electrical bureau.

(3) Electrical wiring, equipment, or materials that is not listed and labeled and a (UL) safety standards does not exist shall be certified by an electrical engineer licensed to practice in New Mexico. The certification will verify manufacturer's safety and performance test data of the product.

(4) 110.16 Flash Protection. Delete in its entirety

(5) 110.21. Marking of Warning Signs. All equipment used on circuits over 300 volts between conductors shall have a warning sign either on or adjacent to the equipment.

(6) Signs shall be made in accordance with ANSI Z535 environmental and safety signs. The language shall read:

(a) For voltages over 300 volts - Install a 1" x 4" label that reads - "480 VOLTS."

(b) For voltages over 600 volts and there are exposed parts - "DANGER - HIGH VOLTAGE - KEEP OUT."

(c) Warning signs shall be consistent with national electrical code articles 230.203, 370.72 (e), 620.3 (a), 665.23, 490.53, and 490.55.

B. Article 210. Branch Circuits.

(1) 210.8(A)(9) GFCI Protection. Add (9) "All 15 or 20 amp receptacles installed within six (6) feet of a sink shall be GFCI protected, unless otherwise specifically allowed in the 2002 national electrical code."

(2) 210.8(B)(4) GFCI Protection. Add, "All 15 or 20 amp receptacles installed within six(6) feet of any sink shall be GFCI protected, unless otherwise specifically allowed in the 2002 national electrical code." Add exception: Receptacles for appliances and equipment within dedicated space that in normal use is not easily moved from one place to another, and that is cord and plug connected in accordance with section 400.7(A)(6)(7)(8).

(3) 210.8(B)(5) Add: Outdoors

(4) 210.11 (A) (1). Number of Branch Circuits. Add, "In dwelling occupancies, circuits for general purpose receptacles shall be limited to a maximum of ten (10) current consuming outlets. Single and duplex receptacle outlets are considered to be one current consuming outlet. Exception: Circuits serving only lighting loads may be calculated per article 220 of the national electrical code.

(5) 210.11 (C) (1). Small Appliance Branch Circuits - Dwelling Unit. Add, "Not more than four (4) current consuming outlets shall be connected to these circuits. Single and duplex receptacle outlets are considered to be one current consuming outlet.

(6) 210.11 (C) (2). Laundry Area Receptacle. "This circuit shall provide supply to the laundry equipment receptacle only. This circuit shall not serve any other outlets.

(7) 210.12 (B) Dwelling unit Bedrooms. Change: "All branch circuits that supply 125-volt, single-phase, 15-and 20-ampere receptacle outlets installed in dwelling unit bedrooms shall be protected by an arc-fault circuit interrupter(s)."

(8) 210.19 (A). General. Voltage Drop Add, "Branch circuits shall not have a voltage drop exceeding 5 percent at the farthest outlet of power, of the nominal voltage system serving the premises. The maximum voltage drop on both feeders and branch circuits at the farthest outlet of power shall not exceed 8 percent."

(9) 210.52 (C) (3). Peninsular Counter Spaces. " At least one receptacle outlet shall be installed at each peninsular

counter space with a long dimension of six (6) feet, or greater and a short dimension of one (1) foot, or greater. A peninsular countertop is measured from the connection edge."

(10) 210.52 (G) Basement and Garages. Add: "Receptacle outlets must be installed a minimum of eighteen (18) inches above finished floor, in attached or detached garages."

(11) 210.63 Heating, Air-conditioning, and Refrigeration Equipment Outlet. Add Exception: "evaporative cooling equipment on single family dwellings."

(12) 210.70 (A)(2)(D)&(C)(1) Lighting Outlets Required. Add, "At least one (1) switched lighting outlet shall be installed in all accessible attics and crawl spaces adjacent to the access point."

(13) 210.70 (A) (2)(E). Lighting Outlets Switch Locations. Add, "On single family dwellings at least one wall switch, or automatic lighting control such as a motion detector shall be installed at each entrance or exit to control exterior illumination."

C. Article 215. Feeders.

(1) 215.1. Scope. Wiring Methods for Feeders: Add, "article 334, nonmetallic-sheathed cable and article 338, service entrance cable type SER, shall be permitted to be used for feeders in dwelling units providing the cables shall not pass through or under any other occupancy. Article 340. UF cable shall be permitted to be used underground for any occupancy, and indoors only in accordance with article 334, nonmetallic-sheathed cable, providing the cable shall not pass through or under any other occupancy."

(2) 215.2 (C). General. Voltage Drop. Add, "Feeders shall not have a voltage drop exceeding five percent (5 percent) at the farthest outlet of power, of the nominal voltage system serving the premises. The maximum voltage drop on both feeders and branch circuits at the farthest outlet of power shall not exceed eight percent (8%)."

D. Article 225. Outside Branch-Circuit and Feeders.

(1) 225.19 (A) Clearance Above Roofs. Exception No. 2. Delete in its entirety.

(2) 225.32. Disconnect Location. Exception No. 1. Change, "For industrial installations under single management, where documented safe switching procedures are established and maintained for disconnection, the disconnection means shall be permitted to be located elsewhere on the premises."

E. Article 230. Services.

Exception: Farm buildings served from a pole on which overcurrent protection is provided, the service entrance conductors shall be permitted to be service entrance cable. The pole meter loop, however, shall be rigid

metal conduit, intermediate metal conduit, electrical metallic tubing, or schedule 80 rigid nonmetallic conduit.

(1) 230.24 (A) Clearance Above Roofs. Exception No.2: Delete in its entirety.

(2) 230.28. Service Masts as Supports. Add, "Where a service mast is used for the support of service drop conductors, it shall be a minimum two inch (2") rigid metal conduit, intermediate metal conduit or comply with local utility requirements."

(3) 230.43. Wiring Methods for 600 Volts, Nominal, or Less. Add, "Service entrance conductors shall be restricted to the following wiring methods: article 330 metal-clad cable, 338 service-entrance cable type USE, 342 intermediate metal conduit, 344 rigid metal conduit, 352 rigid nonmetallic conduit, 358 electrical metallic tubing, 376 wireways, 368 busways, 370 cablebus, or 366 auxiliary gutters. All other methods referred to in article 230.43 are hereby deleted."

(4) 230.70 (A) Add: "The disconnecting means for each occupant of a multiple occupancy building shall be grouped at a common location."

(5) 230.70 (A)(1). General Locations of Service Disconnect. Amend paragraph to read as follows: "The service disconnecting means shall be located at a readily accessible point outside the building or structure and associated with the meter socket enclosure, or within forty eight (48) inches from the point where the service conductor raceway enter the building or structure." **Exception:** Self contained pad mounted meters are not required to be associated with the disconnecting means.

F. Article 240. Overcurrent Protection.

(1) 240.24.(F) Location in or on premises. Add, Overcurrent devices shall not be located in bathrooms, cupboards, or similar locations which inhibit ready access."

(2) [Reserved]

G. Article 250 - Grounding.

(1) 250.32 (B) (2). Two or more buildings, grounded conductor. Delete in its entirety.

(2) 250.50 Grounding Electrode Systems. Add, "On single family dwellings, guest house, studios or detached garages, a concrete encased electrode shall be considered available and installed in compliance with NEC 250.52(A)(3). If a concrete encased electrode is not present, at least 20 feet of No. 2 bare copper in direct contact with the earth at a depth below the earth's surface of not less than thirty (30) inches shall be installed".

(3) 250.52 (A)(5) Rod Electrodes.

Add, "Copper or copper-clad grounding electrodes shall be not less than 5/8" diameter and when in direct contact with the earth it shall be copper or copper-clad."

(4) 250.104 (A). Bonding Metal Water Piping Systems. Add, "The hot and cold metal water pipes shall be bonded together at an accessible location. The bonding jumper shall be No. 6 copper minimum. Non-metallic water pipe systems, which contain short sections of metal water pipes and are not likely to become energized, are not required to be bonded."

(5) 250.104 (B). Bonding Other Metal Piping. Delete "gas piping."

(6) 250.118. Equipment Grounding Conductor. Add, (15) "An equipment grounding conductor shall be installed in all branch circuit and feeder raceways on or above a roof. The equipment grounding conductor shall be sized in accordance with table 250.122."

H. Article 290. Energy Conservation.

(1) 290.10. Scope. "This article sets forth minimum requirements for the design of new buildings and structures or portions thereof and additions to existing buildings that provide facilities or shelter for public assembly, educational, business, mercantile, institutional, storage and residential occupancies designed primarily for human occupancy, by regulating their illuminating systems and equipment for effective use of energy."

(2) 290.20. Exempt Buildings, Areas, and Equipment. For exemptions refer to the New Mexico energy conservation code.

(3) 290.30. Lighting Power Budget.

(a) The interior lighting power is the upper limit of the power to be available to provide the lighting needs in accordance with the criteria and calculation procedures specified herein, and shall include the load of lamps and ballasts.

(b) The interior lighting power shall not exceed the unit power density permitted by the New Mexico energy conservation code.

(c) In lieu of the unit power density method, the interior lighting power may be calculated in accordance with the electrical power and lighting chapter of the new Mexico energy conservation code.

(4) 290.40 Night Sky Protection Act. Outdoor lighting shall comply with the night sky protection act.

I. Article 300. Wiring Methods.

(1) 300.11 (A) Secured in Place. Add: "Independent support wires shall be limited to support of flexible wiring methods from the last point of support for connections within an accessible ceiling to

lighting fixtures or equipment."

(2) 300.11 (A) (1). Securing and Supporting. This section shall apply to fire rated and non-fire rated ceiling assemblies.

(3) 300.11 (A) (1). Exception. Delete in its entirety.

(4) 300.11 (A) (2). Exception. Delete in its entirety.

(5) 300.14. Length of Conductors at Boxes. Add, "The six (6) inches shall be measured from the front edge of the box to the end of the conductor."

J. Article 310. Conductors for General Wiring.

(1) 310.2 (B). Conductor Material. Add the restriction: "The use of aluminum current carrying conductors shall be of the AA-8000 series and shall be limited to No. 2 or larger for aluminum or copper-clad aluminum. Exception: The equipment-grounding conductor shall be limited to No. 4 or larger if in a listed cable assembly.

(2) [Reserved]

K. Article 314. Outlet, Device Pull and Junction Boxes.

(1) 314.27(a) Exception. Delete in its entirety.

(2) [Reserved]

L. Article 334. Nonmetallic-Sheathed Cable.

(1) 334.10(C)(4) Type NMS. Add, "For smoke detector circuits in dwellings."

(2) 334.12(A)(11) Uses Not Permitted. Add (11). "Type NM, NMC, or NMS shall not be installed in buildings, or structures such as stores, professional offices, motels, hotels, and similar occupancies classified as commercial or industrial."

(3) 334.12(A)(12) Uses Not Permitted. Add (12). "In any multifamily dwelling or other structure exceeding three (3) floors above grade. For the purpose of this article, the first floor of a building shall be that floor that has fifty (50) percent or more of the exterior wall surface area level with or above finished grade. One additional level that is the first level and not designed for human habitation and used only for vehicle parking, storage or similar use shall be permitted."

M. Article 340. Underground Feeder and Branch Circuit Cable.

(1) 340.10 (8) Uses Permitted. Add (8) "type UF cable shall be permitted to be imbedded in adobe construction."

(2) 340.10 (9) Add (9), "Type UF Cable, or an approved electrical raceway shall be installed on straw bale residential construction."

(3) 340.12 (12) Uses Not Permitted. Add (12), "Type UF cable shall not be installed in buildings or structures such as stores, professional offices, motels, hotels, or similar occupancies classified as

commercial or industrial."

N. Article 348 Flexible Metal Conduit.

(1) 348.12(1) Uses not permitted. Change: In wet locations.

(2) [Reserved]

O. Article 358 electrical metallic tubing.

(1) 358.12 (7) uses not permitted. Add, "Electrical metallic tubing shall not be permitted to be installed underground or in concrete slabs which are in contact with the earth."

(2) [Reserved]

P. Article 394 concealed knob-and-tube wiring.

(1) 394.12 uses not permitted. Concealed knob and tube wiring shall not be permitted to be installed except by special written permission from the electrical bureau.

(2) [Reserved]

Q. Article 410 Luminaries.

(1) 410.4 (D) (1) Bathtub and Shower Areas. Add (1) "Wall mount luminaries (fixtures) installed in bathtub or shower space shall be marked 'suitable for wet locations' and be ground fault circuit interruption protected."

(2) [Reserved]

R. Article 422. Appliances.

(1) 422.9. Installation of appliance. Add, "Where an evaporative cooler is installed, a listed raceway shall be installed during rough-in from the control point to the evaporative cooler location. The raceway shall contain an equipment-grounding conductor from the control box to the junction box at the unit. The equipment grounding conductor shall be sized in accordance with table 250.122."

(2) [Reserved]

S. Article 550. Mobile Homes and Mobile Home Parks

(1) 550.32 (H) Mobile Home Service Equipment. Add (H) "A 125 volt 15 or 20 amp receptacle outlet shall be installed with ground fault circuit interruption protection at each mobile home or manufactured home service equipment, or the local external disconnecting means permitted in 550.32 (A)."

(2) 550.32 (I) Overhead service Add (I) "Overhead service support shall comply with the serving utility requirements or be at least six inch by six inch (6" x 6") pressure-treated timber or equivalent round poles installed to a depth not less than four (4) feet below finish grade."

T. Article 552. park trailers.

(1) 552.47(D). calculations. Add (D), minimum allowable Demand Factors. Service and feeders for park trailer sites

shall be permitted to be calculated in accordance with Article 550.31 for mobile homes.

(2) [Reserved]

U. Article 700.

Emergency Systems.

(1) 700.1. Scope. Add, "Refer to the latest adopted edition of the building code and the NFPA-101 life safety code for exit and emergency lighting requirements."

(2) [Reserved]

V. Article 800.

Communications Circuits.

(1) 800.52(F). installation of communication cables. Add (F) "Each dwelling unit telephone outlet shall have not less than 4 pairs of No. 24 AWG communication conductors. Each 4 pair cable shall serve not more than three telephone outlets. Conductors shall terminate in a listed box or on a terminal block near the electrical service or location of telephone service. Any exterior wall penetration shall be installed in a listed raceway."

(2) [Reserved]

[14.10.4.10 NMAC - Rp, 14.10.4.10 NMAC, 7-1-04]

14.10.4.11 SMOKE DETECTORS.

For smoke detectors, refer to the latest adopted edition of the building code. Smoke detectors installed in new single family dwellings shall be served by a single source. When two (2) or more smoke detectors are required in a dwelling unit, they shall be interconnected with a multi-conductor cable assembly. Location and power back-up requirement shall be in accordance with the latest adopted edition of the building code.

[14.10.4.11 NMAC - Rp, 14.10.4.11 NMAC, 7-1-04]

14.10.4.12 ACCESSIBILITY REQUIREMENTS FOR PERSONS WITH DISABILITIES.

Add, "Electrical device installation shall comply with accessibility codes adopted for New Mexico."

[14.10.4.12 NMAC - Rp, 14.10.4.12 NMAC, 7-1-04]

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

This is an amendment to 19.15.40 NMAC, replacing the 1999 Edition (NFPA 54) with the 2002 Edition (NFPA), effective 07-01-04.

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
FINANCIAL INSTITUTIONS
DIVISION**

This is an amendment to 12.16.76 NMAC Sections 2, 6, 8, 9, effective 06/15/2004.

12.16.76.2 SCOPE: All state chartered banks otherwise subject to the Home Loan Protection Act, Sections 58-21A-1 to -14 NMSA 1978 (2003, as amended through 2004) ("Act").

[12.16.76.2 NMAC - N, 01/01/2004; A, 06/15/2004]

12.16.76.6 OBJECTIVE: The objective of this part is to grant state chartered banks the same powers and authority to engage in banking activity that federally chartered ~~[savings associations]~~ and insured depository institutions subject to the jurisdiction of the federal government are authorized, empowered, permitted or otherwise allowed to exercise.

[12.16.76.6 NMAC - N, 01/01/2004; A, 06/15/2004]

12.16.76.8 FINDINGS:

A. Within the meaning of Sections 58-1-54 and 58-1-34 NMSA 1978, national banks, federal savings associations and federal credit unions operating in New Mexico are federally chartered and insured depository institutions subject to the jurisdiction of the federal government.

B. The office of thrift supervision, department of the treasury, the "OTS," is authorized by federal legislation to regulate and supervise federal savings associations throughout the United States.

C. The office of the controller of the currency, department of the treasury, the "OCC," is authorized by federal legislation to regulate and supervise national banks throughout the United States.

D. The national credit union administration, the "NCUA," is authorized by federal legislation to regulate and supervise federal credit unions throughout the United States.

~~[E]~~ E. On September 2, 2003 the OTS issued a letter ruling (the "[P]preemption") clarifying the fact that the following sections and subsections of the [A]act (the "[P]preempted [S]sections of the [A]act") are pre-empted by federal law from applying to federal savings associations operating in New Mexico:

(1) Section 58-21A-4.A. and B. ([P]prohibited practices and provisions regarding home loans);

(2) Section 58-21A-5.A., B., C., D., E., G., H., I., J., K., L., M., N., O., and P

(~~[E]~~) limitations and prohibited practices for high-cost home loans);

(3) Section 58-21A-6.A., B., C., D., and E. (~~[D]~~) default; notice; right to cure);

(4) Section 58-21A-9.A., B., and C. (~~[E]~~) civil action);

(5) Section 58-21A-11.B. and C. (~~[A]~~) actions based on home loans);

(6) Section 58-21A-12. (~~[A]~~) application of Unfair Practices Act); and

(7) Section 58-21A-13. (~~[A]~~) attorney ~~[G]~~ general; enforcement of rules).

~~[D]~~ F. Based upon the OTS [P]preemption, effective January 1, 2004, federal savings associations in New Mexico ~~[will be]~~ are authorized to engage in certain banking activities otherwise prohibited by the [A]act.

G. Effective February 12, 2004, the OCC published a final rule that states, in pertinent part: "state laws that obstruct, impair, or condition a national bank's ability to fully exercise its federally authorized real estate lending powers do not apply to national banks" (the "OCC preemption").

H. Based on the OCC preemption, since January 1, 2004, national banks in New Mexico have been authorized to engage in certain banking activities otherwise prohibited by the act.

I. On February 10, 2004 the NCUA issued a letter opinion stating that because the act purports to limit or affect the rates, terms of repayment, and other conditions of loans and lines of credit that federal credit unions may offer to their members, the act is preempted by federal law from applying to federal credit unions in New Mexico (the "NCUA preemption").

J. Based upon the NCUA preemption, since January 1, 2004, federal credit unions in New Mexico have been authorized to engage in certain banking activities otherwise prohibited by the act.

~~[E]~~ K. New Mexico state chartered banks will be placed at a competitive economic disadvantage ~~[to federally chartered and insured savings associations operating in New Mexico if this authority is not granted.]~~ if authorization is not given for state chartered banks to engage in the same banking activity that national banks, federal credit unions and federally chartered and insured savings associations are authorized to engage in in New Mexico as a result of the OCC, NCUA and OTS preemptions. [12.16.76.8 NMAC - N, 01/01/2004; A, 06/15/2004]

12.16.76.9 AUTHORITY: State chartered banks are provided the same powers and authority granted to federal savings associations, ~~[as a result of the OTS Preemption.]~~ national banks and federal credit unions as a result of the OTS, OCC

and NCUA preemptions.

[12.16.76.9 NMAC - N, 01/01/2004; A, 06/15/2004]

NEW MEXICO RESPIRATORY CARE ADVISORY BOARD

This is an amendment to 16.23.2 NMAC, Section 13, effective June 24, 2004.

16.23.2.13 [CONTINUING EDUCATION APPROVAL FOR PROGRAM SPONSOR: ~~\$25.00~~ administrative processing fee. Continuing education sponsor must submit a check or money order with the Department's Sponsor Approval Application form.] [RESERVED]

NEW MEXICO RESPIRATORY CARE ADVISORY BOARD

This is an amendment to 16.23.3 NMAC, Section 9 and an addition of a new Section, 10, effective June 24, 2004.

16.23.3.9 LICENSURE REQUIREMENTS. In accordance with Section 61-12B-7 and Section 61-12B-8, NMSA 1978, and those qualifications set forth therein, the applicant must provide verification of the following:

A. being of good moral character;

B. successful completion of a respiratory care education program supported by the committee on accreditation for respiratory care (CoARC), or its predecessor the joint review committee for respiratory therapy education (JRCRTE), or accredited by the commission on accreditation of allied health education programs [(CAHEP)] (CAAHEP), or its successor approval body; and

C. having successfully passed the [NBRC] national board for respiratory care (NBRC) standard examination resulting in either CRTT, CRT, or RRT credentialing; or

D. current licensure in another state that has educational and examination requirements at least equal to or better than those established for licensure in New Mexico at the time of original licensure.

16.23.3.10 REQUIREMENTS FOR PERSONS RETURNING TO THE FIELD: Respiratory therapists applying for licensure who cannot provide proof of having been working in the field of respiratory care within the immediate preceding five years prior to licensure application in

New Mexico must provide proof of having successfully passed the exam for certified respiratory therapists (CRT) or registered respiratory therapists (RRT) administered by the NBRC and taken within the year of licensure application in New Mexico.

NEW MEXICO RESPIRATORY CARE ADVISORY BOARD

This is an amendment to 16.23.4 NMAC, Section 8, effective June 24, 2004.

16.23.4.8 DOCUMENTATION REQUIREMENTS FOR PRACTITIONERS. Applicants for licensure must provide the following items of documentation to the department. A notary public must certify all document copies as a true and correct copy of the original.

A. A practitioners application form approved by the department, completed by the applicant, and signed by the applicant in the presence of a notary public.

B. A passport-type photograph of the applicant taken within the last year, and which the applicant has signed the back of, in the presence of a notary public.

C. A copy of the applicant's birth certificate.

D. At least one letter of character reference written within the preceding three years from someone unrelated to the applicant.

(1) The letter must include a return address and phone number; and

(2) The letter may be sent directly to the department by the reference; or,

(3) If the reference letter is included with the application, the reference's signature on the letter must have been witnessed by a notary public.

E. A copy of the transcript for the completed respiratory care program; or a copy of the respiratory care program completion certificate or diploma.

F. A copy of the national board for respiratory care, inc.'s (NBRC) CRTT, CRT, or RRT certificate; or a copy of the applicant's NBRC CRTT, CRT, or RRT identification card; or a copy of the exam results showing successful passing of the NBRC CRTT, CRT, or RRT examination if the applicant has not yet received the NBRC certificate.

G. A check or money order made payable to the board in the amount of the applicable fee as provided in 16.23.2.8 NMAC.

H. If applicable, a statement of other professional licenses held by the applicant either in New Mexico or in other licensing jurisdictions, and copies thereof; and verification of licensure status

sent directly to the department by all state licensing boards where the applicant is or has ever been licensed.

I. A resume' with employment information encompassing at least five years prior to the application for licensure in New Mexico.

J. Applicants for licensure who have not been actively engaged or employed in the practice of respiratory therapy within the last five years prior to application for licensure in New Mexico must provide proof of having successfully passed either the NBRC certified respiratory therapist (CRT) or registered respiratory therapist (RRT) standards exam taken within a year of licensure application in New Mexico.

NEW MEXICO RESPIRATORY CARE ADVISORY BOARD

This is an amendment to 16.23.9 NMAC, Sections 14 and 16, effective June 24, 2004.

16.23.9.14 TIME LIMITATION ON INACTIVE STATUS LICENSE. A license on inactive status must be reactivated before [July 3] September 30 of the NEXT odd-numbered year, or the license shall lapse and become null and void (see 16.23.11.11 NMAC).

16.23.9.16 INACTIVE STATUS REACTIVATION. The individual who has placed his or her license on inactive status may reactivate the license before [July 31] September 30 of the next odd-numbered year by completing the following procedure.

A. Request a reactivation application form from the department or download it from the board's website.

B. Complete, sign, and return the reactivation application form with a postmark dated on or before [July 31] September 30 of the odd-numbered year and within the time limitation set forth in 16.23.9.14 NMAC, this rule.

C. Remit the applicable fee for reactivation from inactive status set forth in 16.23.2.19 NMAC.

NEW MEXICO RESPIRATORY CARE ADVISORY BOARD

This is an amendment to 16. 23. 11 NMAC, Sections 10 and 11, effective June 24, 2004.

16.23.11.10 LICENSE REACTIVATION FROM EXPIRED STATUS.

The individual who has allowed his or her license to expire, must reactivate the expired license before the next scheduled renewal expiration date for licensed respiratory care practitioners September 30 of the next odd-numbered year. The applicant must complete the following process in order to reactivate his or her license.

A. Contact the department to request a reactivation application form or download it from the board's website.

B. Complete and return to the department, the reactivation application form with the necessary continuing education documentation required in 16.23.12 NMAC [~~and~~].

C. Submit to the department a check or money order payable to the board in the amount of the renewal and penalty fee (See 16.23.2.9 NMAC and 16.23.2.10 NMAC).

16.23.11.11 LICENSE LAPSE. An expired license which has not been reactivated before the next scheduled license expiration date September 30 of the next odd-numbered year, will lapse and become null and void.

A. **Re-licensure required.** Before resuming the practice of respiratory care in New Mexico, the individual whose license has lapsed must be approved for licensure by the department.

B. **Application required.** The applicant with a lapsed license must repeat the entire initial licensure application process as set forth in 16.23.3 and 16.23.4 NMAC.

NEW MEXICO RESPIRATORY CARE ADVISORY BOARD

This is an amendment to 16. 23.12 NMAC, Sections 8, 9, and 11, effective 06-24-2004.

16.23.12.8 CONTINUING EDUCATION REQUIREMENTS. Continuing education is a requirement for biennial license renewal or license reactivation.

A. Continuing education hours must be directly related to respiratory therapy, pulmonary function technology, or related inter-disciplinary areas of health care.

B. The department may consult with the board to resolve questions as to appropriate continuing education hours.

(1) The department shall be the final authority on acceptance of any educational activity submitted by a licensee or a sponsor for approval.

(2) Each respiratory care practi-

tioner must participate in at least **twenty (20)** clock hours of continuing education activities every [~~two years~~] renewal cycle, or as provided by 16.23.12.12 NMAC and 16.23.12.13 NMAC.

C. A minimum of twelve of the twenty hours of continuing education must be category I that include any of the following types of educational offerings:

(1) lecture - a discourse given for instruction before an audience or through teleconference;

(2) panel - a presentation of a number of views by several professionals on a given subject with none of the views considered a final solution;

(3) workshop - a series of meetings for intensive, hands on, study or discussion, in a specific area of interest;

(4) seminar - a directed advanced study or discussion in a specific field of interest;

(5) symposium - conference of more than a single session organized for the purpose of discussion of a specific subject from various viewpoints and by various presenters;

(6) distance education - includes such enduring materials as text, Internet or CD, provided the proponent has included an independently scored test as part of the learning package; and

(7) NBRC awarded continuing education credit for successful completion of re-credentialing exams for CRT and RRT level credentials.

16.23.12.9 APPROVED CONTINUING EDUCATION PROGRAMS

A. The department will approve, on a clock hour basis, continuing education activities which meet the criteria in Subsection A of 16.23.12.8 NMAC, and which are sponsored or approved for respiratory care practitioners by the following:

(1) the American association for respiratory care, inc. (AARC);

(2) any AARC state chartered affiliate;

(3) [~~The New Mexico Hospitals and Health Systems Association (NMHHSA)~~] other state boards that license respiratory care practitioners;

[(4) ~~The New Mexico Nurses Association;~~]

[(5) ~~(4)~~] (4) the American lung association; and

[(6) ~~(5)~~] (5) the American heart association.

B. The department will approve, on a clock hour basis, a maximum of eight hours per renewal cycle of the following type of education activities listed within 16.23.12.9.B NMAC for licensees:

(1) any hospital or healthcare organization respiratory care-related contin-

uing education in-service;

(2) respiratory care-related science courses taken in an academic setting and received toward RRT credentialing;

(3) CPR certification or re-certification courses;

(4) infection control certification or re-certification courses;

(5) hazardous materials certification or re-certification courses; and

(6) advanced life support courses [~~and~~].

[(7) ~~Attendance at New Mexico Respiratory Care Advisory Board meetings by respiratory care practitioners not currently serving as Board members.~~]

C. The department will approve respiratory care-related education taken in an academic setting. One (1) semester hour or its equivalent converts to fifteen (15) clock hours.

D. The department will automatically approve for licensed respiratory care practitioners a maximum of six (6) clock hours of continuing education credit for each renewal period for teaching approved respiratory care-related continuing education offerings as provided in Part 12 (this rule). Credit will be granted one (1) time only for each course taught no matter how many times or how many years the course is repeated.

16.23.12.11 OTHER EDUCATIONAL OFFERINGS. [~~The sponsor must submit to the Department, on a Sponsor Approval Application form, a request for approval of all other proposed continuing education programs or seminars.]~~ The department, in consultation with the board, have an informal arrangement with the New Mexico society for respiratory care (NMSRC) in which NMSRC will review for approval other continuing education offerings, for individual licensees or continuing education sponsors.

A. [~~The written request shall be submitted to arrive at the Department at least thirty (30) days prior to the program presentation.]~~ Any continuing education (CE) activity that is not covered by 16.23.12.8 NMAC through 16.23.12.10 NMAC must be submitted to NMSRC for review and approval.

(1) Approval must be granted by the NMSRC before the CE may be considered applicable toward meeting the continuing education renewal requirement for respiratory care practitioners licensed in New Mexico. Any deadlines for submission of these requests to the NMSRC will be established by the NMSRC as needed.

(2) Approval must be granted by NMSRC before the continuing education can be submitted to the department and the board to meet the licensee's continuing edu-

cation renewal requirement.

B. The request for approval of an educational seminar or course must include the following, at a minimum. The NMSRC may require additional information to process the request.

- (1) Name of the seminar or course.
- (2) Sponsoring party.
- (3) Objective of the seminar.
- (4) Format and subjects of seminar or course.
- (5) Number of clock hours credited for the offering.
- (6) Sample "proof of attendance" certificate.
- (7) Name and qualifications of the instructor.
- (8) Evaluation mechanism to be used.

C. ~~[An administrative processing fee as set forth in 16.23.2.13 NMAC.] Any processing fee established by the NMSRC for the continuing education review service must be payable to the NMSRC and~~ must accompany the request to the NMSRC for approval of an educational offering.

D. The ~~[Department]~~ NMSRC will give written notification to the sponsor or licensee of the approval or denial of the educational program or seminar.

**NEW MEXICO
RESPIRATORY CARE
ADVISORY BOARD**

This is an amendment to 16.23.13 NMAC, Sections 1 and 5, effective 06-24-2004.

16.23.13.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department Respiratory Care Advisory Board [2055 South Pacheco Suite 400 P.O. Box 25101 Santa Fe, New Mexico 87504]

16.23.13.5 EFFECTIVE DATE: November 29, 1997, unless a later date is cited at the end of a section [~~or Paragraph~~].

**NEW MEXICO TAXATION
AND REVENUE
DEPARTMENT**

**TITLE 3: TAXATION
CHAPTER 12: HIGHWAY USE
TAXES AND FEES
PART 12: WEIGHT DISTANCE TAX IDENTIFICATION PERMIT**

3.12.12.1 **ISSUING AGENCY:** Taxation and Revenue Department, Joseph

M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM 87504-0630

[3.12.12.1 NMAC - N, 7/1/04]

3.12.12.2 **SCOPE:** This part applies to all registrants, owners and operators of motor vehicles with a declared gross weight of 26,001 pounds or more if the motor vehicles are used or intended to be used on New Mexico highways, when the motor vehicle is registered with New Mexico.

[3.12.12.2 NMAC - N, 7/1/04]

3.12.12.3 **STATUTORY AUTHORITY:** Section 9-11-6.2 NMSA 1978.

[3.12.12.3 NMAC - N, 7/1/04]

3.12.12.4 **DURATION:** Permanent.

[3.12.12.4 NMAC - N, 7/1/04]

3.12.12.5 **EFFECTIVE DATE:** 7/1/04, unless a later date is cited at the end of a section, in which case the later date is the effective date.

[3.12.12.5 NMAC - N, 7/1/04]

3.12.12.6 **OBJECTIVE:** The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Weight Distance Tax Act.

[3.12.12.6 NMAC - N, 7/1/04]

3.12.12.7 **DEFINITIONS:** [Reserved.]

[3.12.12.7 NMAC - N, 7/1/04]

3.12.12.8 **WEIGHT DISTANCE TAX IDENTIFICATION PERMIT TO BE ISSUED:**

A. Upon receipt of an approved application by a motor carrier, the department will issue weight distance tax identification permit(s) to the motor carrier for the number of vehicles they own that are subject to the weight distance tax. The motor carrier will be required to identify each permit they receive to a specific vehicle by indicating the unit and vehicle identification numbers on the face of the permit.

B. The weight distance tax identification permit is an administrative certificate that will be issued on non-reproducible paper to motor carriers who submit an approved application.

C. Weight distance tax identification permits issued by the department will only be valid for the calendar year for which they are issued.

[3.12.12.8 NMAC - N, 7/1/04]

3.12.12.9 **WEIGHT DISTANCE TAX IDENTIFICATION PER-**

MIT - ADMINISTRATIVE FEE: Any person that applies for and receives a weight distance tax identification permit shall pay an administrative fee of two dollars (\$2.00) for each permit. The administrative fee will be used to defray the costs incurred by the department for the processing and issuing of the weight distance tax identification permits. The administrative fee will be imposed for every permit, including annual renewals and replacements.

[3.12.12.9 NMAC - N, 7/1/04]

History of 3.12.12 NMAC: [RESERVED]

**NEW MEXICO TAXATION
AND REVENUE
DEPARTMENT**

This is an amendment to 3.1.2 NMAC Section 10, effective 6/15/04.

3.1.2.10 COOPERATIVE AGREEMENT EFFECTIVE DATE: A cooperative agreement or an amended cooperative agreement entered into pursuant to Section 9-11-12.1 NMSA 1978 or Section 9-11-12.2 NMSA 1978, shall become effective on July 1 or January 1, whichever date occurs first after the expiration of at least three months from the date the cooperative agreement or amended cooperative agreement is signed by both the pueblo or tribe and the secretary.

**NEW MEXICO TAXATION
AND REVENUE
DEPARTMENT**

This is an amendment to 3.12.10 NMAC Section, 8 and 9, effective 6/15/04.

3.12.10.8 [ANNUAL TAX IDENTIFICATION CARD TO BE ISSUED:

A. ~~The department will issue every person required under Section 7-15A-10 NMSA 1978 to pay the annual fee a tax identification card to be used for the purpose of establishing that the person has paid the annual fee.~~

B. ~~The "tax identification card" may be paper, an affixable decal or an electronic identifier at the election of the department.~~ [RESERVED]

3.12.10.9 [LEASE OPERATORS:

A. ~~Any person named on a valid tax identification card issued by the department is responsible for maintaining all records which demonstrate that any and all highway use taxes and fees incurred by~~

~~the operation of registered vehicles on New Mexico highways have been paid.~~

~~B. When a vehicle is leased and there is no valid tax identification card issued by the department for it, the following persons shall be held ultimately responsible for demonstrating that all applicable fees and taxes have been paid. In the event that such payment cannot be demonstrated, these same persons shall be held financially responsible for payment of all unpaid fees and taxes due, and the vehicle may be detained until such payment has been made.~~

~~(1) If the commercial motor carrier vehicle is owned by a company which is in the business of vehicle rental or leasing and the vehicle is leased to customers without a driver, the vehicle owner (lessor) is financially responsible.~~

~~(2) If the commercial motor carrier vehicle is owned by an owner/operator and both the owner/operator (lessor) and the vehicle falls under the employment or control and custody of the lessee, the lessee is financially responsible.] [RESERVED]~~

NEW MEXICO TAXATION AND REVENUE DEPARTMENT

This is an amendment to 3.12.11 NMAC Section 8, effective 6/15/04.

3.12.11.8 ~~[FEE SCHEDULE APPLIES TO LARGEST SIZE OF FLEET:~~

~~A. The fee schedule in Section 7-15A-11 NMSA 1978 applies to the largest size of the fleet during a year.~~

~~B. Example 1: In January, 19xx, a taxpayer registers ten (10) vehicles and pays the \$25 fee specified in Section 7-15A-11 NMSA 1978. Later that same year, the taxpayer trades in one vehicle for a new vehicle. His total registered fleet remains at ten (10) vehicles and no additional fee is due.~~

~~C. Example 2: In January, 19xx, a taxpayer registers forty nine (49) vehicles and pays the \$125 fee specified in Section 7-15A-11 NMSA 1978. Later that same year, the taxpayer trades in one vehicle from his fleet and acquires three new vehicles. His total registered fleet is now fifty one (51) vehicles and an additional \$75 fee is due.] [RESERVED]~~

End of Adopted Rules Section

SUBMITTAL DEADLINES AND PUBLICATION DATES

2004

Volume XV	Submittal Deadline	Publication Date
Issue Number 1	January 2	January 15
Issue Number 2	January 16	January 30
Issue Number 3	February 2	February 13
Issue Number 4	February 16	February 27
Issue Number 5	March 1	March 15
Issue Number 6	March 16	March 31
Issue Number 7	April 1	April 15
Issue Number 8	April 16	April 30
Issue Number 9	May 3	May 14
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Issue Number 16	August 16	August 31
Issue Number 17	September 1	September 15
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Issue Number 19	October 1	October 14
Issue Number 20	October 15	October 29
Issue Number 21	November 1	November 15
Issue Number 22	November 16	November 30
Issue Number 23	December 1	December 14
Issue Number 24	December 15	December 30

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