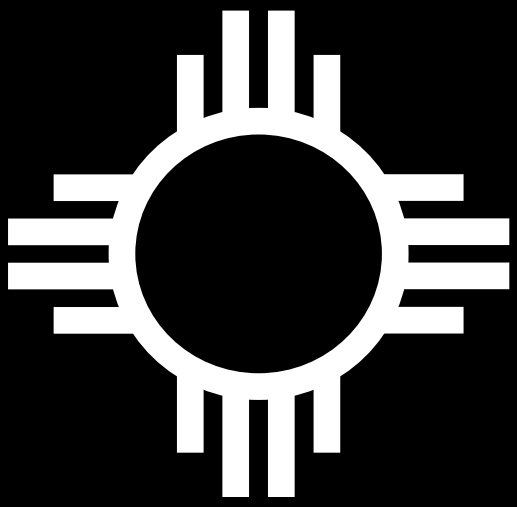
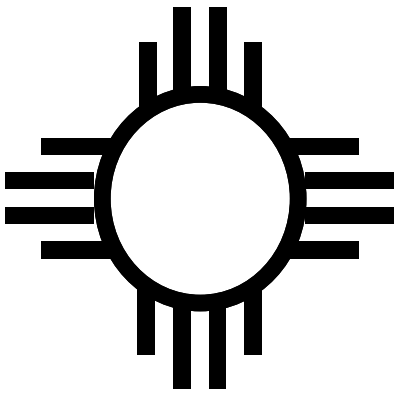
NEW MEXICO REGISTER



Volume XVIII
Issue Number 1
January 16, 2007

New Mexico Register

Volume XVIII, Issue Number 1
January 16, 2007



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

The Commission of Public Records
Administrative Law Division
Santa Fe, New Mexico
2007

New Mexico Register

Volume XVIII, Number 1
January 16, 2007

Table of Contents

Notices of Rulemaking and Proposed Rules

Game Commission
State Game Commission Public Meeting and Rulemaking Notice 1
Hoisting Operators Licensure Examining Council
Public Rule Hearing and Regular Meeting. 1
Human Services Department
Medical Assistance Division
Notice of Public Hearing 1

Adopted Rules

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A=*Amended*, E=*Emergency*, N=*New*, R=*Repealed*, Rn=*Renumbered*

Human Services Department
Medical Assistance Division
8.172.400 NMAC N/E Recipient Policies 3
8.172.500 NMAC N/E Income and Resource Standards. 4
8.172.600 NMAC N/E Benefit Description. 4
Pharmacy, Board of
16.19.3 NMAC A Reciprocity 5
16.19.4 NMAC A Pharmacist. 5
16.19.7 NMAC A Hospital Pharmacies 11
16.19.12 NMAC A Fees. 13
16.19.20 NMAC A Controlled Substances. 13
16.19.21 NMAC A Drug Precursors 17
16.19.26 NMAC A Pharmacist Prescriptive Authority 18
Public Education Department
6.30.8 NMAC N Distance Learning. 19

Other Material Related to Administrative Law

Architects, Board of Examiners for
Regular Meeting 23

Notices of Rulemaking and Proposed Rules

NEW MEXICO GAME COMMISSION

STATE GAME COMMISSION PUBLIC MEETING AND RULE MAKING NOTICE

On Wednesday, January 10, 2007, beginning at 9:00 a.m. at the State Capitol Building - Room 311, Santa Fe, NM 87503, and the State Game Commission will meet in Public Session to consider action as appropriate on the following: Organizational Structure of State Game Commission; and General Public Comments (Comments limited to 3 minutes).

* Designate Reasonable Notice to the Public for Commission Meetings during 2007 per 19.30.3.8A(1), NMAC.

A copy of the agenda or any of the affected rules can be obtained from the Office of the Director, New Mexico Department of Game and Fish, P.O. Box 25112, Santa Fe, New Mexico 87504 or on the Department's website. This agenda is subject to change up to 24 hours prior to the meeting. Please contact the Director's Office at (505) 476-8008, or the Department's website at www.wildlife.state.nm.us for updated information.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Shirley Baker at (505) 476-8030. Please contact Ms. Baker at least 3 working days before the set meeting date. Public documents, including the Agenda and Minutes can be provided in various accessible forms. Please contact Shirley Baker if a summary or other type of accessible form is needed.

NEW MEXICO HOISTING OPERATORS LICENSURE EXAMINING COUNCIL

HOISTING OPERATOR'S LICENSURE EXAMINING COUNCIL

PUBLIC RULE HEARING AND REGULAR MEETING

Notice is hereby given that the Hoisting Operator Licensure Examining Council will hold a public rule hearing and regular meeting on Friday, February 23, 2007. The hearing/meeting will commence at 1:30 p.m. and will be held in the Construction Industries Division - Conference room located at 5200 Oakland Avenue NE in Albuquerque, New Mexico 87113

Council Members will 1) consider agenda items and discuss other business that may require action and 2) the adoption of a proposed rule change to Subsection G of Section 16.43.2.24 and Subsection H of Section 16.43.2.24: General Examination Fee and Law and Safety Examination Fee of the Hoisting Operator Safety Act and its Rules. A copy of the Agenda will be available at the office of the Executive Director prior to said meeting. Persons wishing to present their comments at the hearing will need twelve copies of any comments or proposed changes for distribution to the Board and staff.

If you have any questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, but need a reader, amplifier, qualified sign language interpreter or any form, please notify the Executive Director at 505-222-9809 at least 10 days prior to the meeting.

NEW MEXICO HUMAN SERVICES DEPARTMENT

MEDICAL ASSISTANCE DIVISION

NOTICE

The New Mexico Human Services Department (HSD) will hold a public hearing at 10:00 a.m., on January 16, 2007, in the HSD Law Library at Pollon Plaza, 2009 S. Pacheco Street, Santa Fe, New Mexico. The subject of the hearing will be **Premium Assistance for Maternity**.

The objective of premium assistance is to reduce the number of uninsured New Mexicans by providing state funds toward the purchase of comprehensive health insurance products for pregnant women who are ineligible for public assistance under the act. The Department is proposing to implement the program in Chapter 172 of the NMAC. The Department is implementing these regulations effective December 31, 2006. Notification in the register serves as the amendments to the *Premium Assistance for Maternity (Category 035/2)*.

Interested persons may submit written comments no later than 5:00 p.m., January 16, 2007, to Pamela S. Hyde, J.D., Secretary, Human Services Department, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. Interested persons may also address comments via electronic mail to: Magdalena.Romero@state.nm.us. All written and oral testimony will be considered prior to issuance of the final regulation.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in any HSD public hearing, program or services, please contact the NM Human Services Department toll-free at 1-888-997-2583, in Santa Fe at 827-3156, or through the department TDD system, 1-800-609-4833, in Santa Fe call 827-3184. The Department requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

Copies of the Human Services Register are available for review on our Website at www.state.nm.us/hsd/mad.html or by sending a self-addressed stamped envelope to Medical Assistance Division, Program Oversight & Support Bureau, P.O. Box 2348, Santa Fe, NM. 87504-2348.

End of Notices and Proposed Rules Section

This page intentionally left blank.

Adopted Rules

NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES
CHAPTER 172 PREMIUM ASSISTANCE FOR MATERNITY (CATEGORY 035/2)
PART 400 RECIPIENT POLICIES

8.172.400.1 ISSUING AGENCY: Human Services Department
[8.172.400.1 NMAC - N/E, 12-31-06]

8.172.400.2 SCOPE: This rule applies to the general public.
[8.172.400.2 NMAC - N/E, 12-31-06]

8.172.400.3 STATUTORY AUTHORITY: New Mexico Statutes Annotated, 1978 (Chapter 27, Article 2-12) authorizes the human services department to administer a program of medical or premium assistance for pregnant women ineligible for federally funded public assistance. The premium assistance for maternity program will be designated for purposes of this policy as category 035/2.
[8.172.400.3 NMAC - N/E, 12-31-06]

8.172.400.4 DURATION: The medical or premium assistance program is operated subject to the availability of funding.
[8.172.400.4 NMAC - N/E, 12-31-06]

8.172.400.5 EFFECTIVE DATE: December 31, 2006, unless a later date is cited at the end of the section.
[8.172.400.5 NMAC - N/E, 12-31-06]

8.172.400.6 OBJECTIVE: The objective of premium assistance for maternity is to reduce the number of uninsured New Mexicans by providing state funds toward the purchase of comprehensive health insurance products for pregnant women who are ineligible for public assistance under the act.
[8.172.400.6 NMAC - N/E, 12-31-06]

8.172.400.7 DEFINITIONS:

A. **Action:** The denial or limited authorization of a requested service, including the type or level of service; the reduction, suspension, modification, or termination of a previously authorized service; the denial, in whole or in part, of payment for a service; or a failure to provide a service in a timely manner. An untimely service authorization constitutes a denial and is thus considered an action.

B. **Administrative hearing:** An evidentiary hearing conducted so that evidence can be presented.

C. **Enrollment:** For purposes of premium assistance for maternity, "enrollment" means payment of the premium assistance for maternity one-time premium.

D. **Enumeration:** The process by which the federal government assigns a social security number.

E. **Public institution:** An institution which is the responsibility of a governmental unit and over which a governmental unit exercises administrative control. Public institutions include jails, prisons, detention centers, diagnostic holding centers, the New Mexico boys and girls schools, "wilderness camps", or halfway houses and reintegration centers which are not certified to furnish medical care.

F. **Overpayments:** Erroneous payments or payment made on behalf of an individual was not eligible.

G. **Uninsured:** For purposes of premium assistance for maternity, a woman is considered to be uninsured if she does not have health insurance coverage that includes prenatal and delivery care. A woman with access to services at IHS, veterans' administration, or workers' compensation, or having commercial health insurance that excludes prenatal and delivery benefits, is not considered to be insured.
[8.172.400.7 NMAC - N/E, 12-31-06]

8.172.400.8 [RESERVED]

8.172.400.9 WHO CAN BE COVERED UNDER PREMIUM ASSISTANCE PROGRAM: To be covered by premium assistance for maternity (PAM), the applicant must meet all eligibility criteria and must enroll by paying the one-time enrollment fee.
[8.172.400.9 NMAC - N/E, 12-31-06]

8.172.400.10 ELIGIBILITY: To be eligible for PAM, the applicant must meet all eligibility criteria. Once eligibility is established, the individual enrolls in the PAM by paying the one-time premium.
[8.172.400.10 NMAC - N/E, 12-31-06]

8.172.400.11 HEALTH CARE COVERAGE UNDER PAM: Health care coverage under the PAM program is the HSD pregnancy-only coverage (see 8.235.600.9 NMAC [PSO 600]).
[8.172.400.11 NMAC - N/E, 12-31-06]

8.172.400.12 ELIGIBILITY: An individual who is determined to be eligible for PAM will continue to be eligible throughout the pregnancy and through the end of the second month after the month of birth or the month of pregnancy termination, unless the woman moves out of state, or reports a decrease in income that results in the woman being found eligible for medicaid.
[8.172.400.12 NMAC - N/E, 12-31-06]

8.172.400.13 ENROLLMENT: For purposes of PAM, "enrollment" in the pregnancy-related coverage will consist of paying the enrollment fee. PAM coverage begins only after eligibility has been determined and the enrollment fee has been received by HSD.
[8.172.400.13 NMAC - N/E, 12-31-06]

8.172.400.14 DISENROLLMENT: Once the pregnant woman is determined eligible for PAM and the one-time premium is paid, the pregnant woman is enrolled and coverage begins. Enrollment continues until the sooner of: the second month following the month of birth or the termination of the pregnancy; the woman moves out of state; or the woman is found eligible for medicaid. The one-time premium will not be refunded under the above-described or any other circumstances.
[8.172.400.14 NMAC - N/E, 12-31-06]

8.172.400.15 [RESERVED]

8.172.400.16 RESIDENCY: To be eligible for PAM, applicant/recipients must be living in New Mexico on the date of application or determination of eligibility and have demonstrated intent to remain in New Mexico.

A. **Establishing residence:** Residence in New Mexico is established by living in the state and carrying out the types of activities normally associated with every day life, such as occupying a home, enrolling child(ren) in school, getting a driver's license, or renting a post office box. An applicant/recipient who is homeless is considered to have met residency requirements if he intends to remain in the state.

B. **Abandonment of residence:** Residence is not abandoned by temporary absences from the state. Temporary absences occur when recipients leave New Mexico for specific purposes with time-limited goals. Residence is considered abandoned when any of the following occur:

(1) applicant/recipient leaves New Mexico and indicates that he intends to establish residence in another state;

(2) applicant/resident leaves New Mexico for no specific purpose with no clear intention of returning;

(3) applicant/recipient leaves the state and applies for financial, food, or medical assistance in another state that makes

residence a condition of eligibility; or

(4) applicant/recipient has been absent from New Mexico for more than thirty (30) days without notification of departure to intention of returning.

[8.172.400.16 NMAC - N/E, 12-31-06]

8.172.400.17 RESIDENCE IN A PUBLIC INSTITUTION:

A. An applicant/recipient who is an inmate of a public institution is not eligible for PAM. A public institution is an institution which is the responsibility of a governmental unit and over which a governmental unit exercises administrative control.

B. Public institutions include jails, prisons, detention centers, diagnostic holding centers, the New Mexico boy's and girl's schools, "wilderness camps", or halfway houses and reintegration centers which are not certified to furnish medical care.

C. An individual is not considered to be living in an institution if she is placed in a detention center for a temporary period pending other arrangements appropriate to her needs. For purposes of eligibility for PAM, a woman who is placed in a detention center is considered temporarily absent form the home, until the 60th day, or the adjudication ends, whichever first occurs.

[8.172.400.17 NMAC - N/E, 12-31-06]

8.172.400.18 SPECIAL RECIPIENT REQUIREMENTS: To be eligible for PAM, the applicant must meet the criteria below.

A. **Enrollment:** For purposes of PAM, enrollment consists of paying the one-time premium. Premium charges are determined by the secretary of HSD and are subject to change pursuant to available funding. Premium charges are constructed to provide financial incentives for early prenatal care.

B. **Ineligible for medicaid:** To be eligible for PAM, the applicant must either be denied medicaid, or be screened and found ineligible for medicaid.

C. **Pregnant:** For purposes of PAM, the woman must be pregnant.

D. **Uninsured:** For purposes of PAM eligibility, an applicant cannot be covered by medicare, medicaid, or a commercial health insurance product that covers prenatal care and delivery. The applicant must be ineligible for medicaid due to countable income, not on the basis of failure to recertify or failure to provide the necessary documentation to establish eligibility for medicaid. An individual with access to health care at Indian health services, veteran's administration, or through worker's compensation, is not considered to be insured by having such access.

E. **Voluntary drop of insurance:** A pregnant woman who has voluntarily dropped health insurance that covers prenatal care and delivery will be ineligible for PAM for six months, starting with the month that the health insurance was dropped (i.e., the first month of no coverage). It is not considered to be a voluntary drop if the drop was caused by: the loss of access to employer-sponsored insurance, the loss of employment, divorce, death of a spouse, geographic move, or loss of coverage as a dependent.

[8.172.400.18 NMAC - N/E, 12-31-06]

8.172.400.19 CITIZENSHIP: Refer to 8.200.410.11 NMAC.

[8.172.400.19 NMAC - N/E, 12-31-06]

8.172.400.20 ENUMERATION: In order to be eligible for PAM, the individual must disclose his or her social security number, or apply for one if not already enumerated.

[8.172.400.20 NMAC - N/E, 12-31-06]

HISTORY OF 8.172.400 NMAC: [RESERVED]

NEW MEXICO HUMAN SERVICES DEPARTMENT

MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES
CHAPTER 172 PREMIUM ASSISTANCE FOR MATERNITY (CATEGORY 035/2)
PART 500 INCOME AND RESOURCE STANDARDS

8.172.500.1 ISSUING AGENCY: Human Services Department

[8.172.500.1 NMAC - N/E, 12-31-06]

8.172.500.2 SCOPE: This rule applies to the general public.

[8.172.500.2 NMAC - N/E, 12-31-06]

8.172.500.3 S T A T U T O R Y AUTHORITY: New Mexico Statutes Annotated, 1978 (Chapter 27, Article 2-12) authorizes the human services department to administer a program of medical or premium assistance for pregnant women ineligible for federally funded public assistance. The premium assistance for maternity program will be designated for purposes of this policy as category 035/2.

[8.172.500.3 NMAC - N/E, 12-31-06]

8.172.500.4 DURATION: The medical or premium assistance program is operated subject to the availability of funding.

[8.172.500.4 NMAC - N/E, 12-31-06]

8.172.500.5 EFFECTIVE DATE: December 31, 2006, unless a later date is cited at the end of the section.

[8.172.500.5 NMAC - N/E, 12-31-06]

8.172.500.6 OBJECTIVE: The objective of premium assistance for maternity is to reduce the number of uninsured New Mexicans by providing state funds toward the purchase of comprehensive health insurance products for pregnant women who are ineligible for public assistance under the act.

[8.172.500.6 NMAC - N/E, 12-31-06]

8.172.500.7 DEFINITIONS: See 8.172.400 NMAC.

[8.172.500.7 NMAC - N/E, 12-31-06]

8.172.500.8 [RESERVED]

8.172.500.9 INCOME DETERMINATION: In order to determine whether or not the applicant is potentially medicaid eligible, the countable income of the family with which the applicant resides must be determined. Family income will be determined using the income definitions, disregards, and methodologies as described in 8.235.500.11 NMAC. There is no upper income limit for premium assistance for maternity (PAM). Once a woman is determined eligible for PAM, the eligibility will continue through the second month after the month of birth or pregnancy termination, unless the woman moves out of state, or the family reports a decrease in income which results in the woman becoming eligible for medicaid.

[8.172.500.9 NMAC - N/E, 12-31-06]

HISTORY OF 8.172.500 NMAC: [RESERVED]

NEW MEXICO HUMAN SERVICES DEPARTMENT

MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES
CHAPTER 172 PREMIUM ASSISTANCE FOR MATERNITY (CATEGORY 035/2)
PART 600 BENEFIT DESCRIPTION

8.172.600.1 ISSUING AGENCY: Human Services Department

[8.172.600.1 NMAC - N/E, 12-31-06]

8.172.600.2 SCOPE: This rule applies to the general public.

[8.172.600.2 NMAC - N/E, 12-31-06]

8.172.600.3 S T A T U T O R Y

AUTHORITY: New Mexico Statutes Annotated, 1978 (Chapter 27, Article 2-12) authorizes the human services department to administer a program of medical or premium assistance for pregnant women ineligible for federally funded public assistance. The premium assistance for maternity program will be designated for purposes of this policy as category 035/2.
[8.172.600.3 NMAC - N/E, 12-31-06]

8.172.600.4 DURATION: The medical or premium assistance program is operated subject to the availability of funding.
[8.172.600.4 NMAC - N/E, 12-31-06]

8.172.600.5 EFFECTIVE DATE: December 31, 2006, unless a later date is cited at the end of the section.
[8.172.600.5 NMAC - N/E, 12-31-06]

8.172.600.6 OBJECTIVE: The objective of premium assistance for maternity is to reduce the number of uninsured New Mexicans by providing state funds toward the purchase of comprehensive health insurance products for pregnant women who are ineligible for public assistance under the act.
[8.172.600.6 NMAC - N/E, 12-31-06]

8.172.600.7 DEFINITIONS: See 8.172.400 NMAC.
[8.172.600.7 NMAC - N/E, 12-31-06]

8.172.600.8 [RESERVED]

8.172.600.9 BENEFITS: The premium assistance for maternity (PAM) benefit is premium assistance toward the purchase of pregnancy-related health coverage. The portion of the one-time premium paid by the PAM program will be determined by the secretary of the human services department, based on available funding. The one-time premium payment is constructed to provide financial incentives for early prenatal care.
[8.172.600.9 NMAC - N/E, 12-31-06]

8.172.600.10 [RESERVED]

8.172.600.11 ERRONEOUS RECEIPT OF PREMIUM ASSISTANCE PROGRAM BENEFITS: Participants of the premium assistance program who failed to provide pertinent information or who provided false information regarding eligibility will be responsible for repayment of benefits that were erroneously received.
[8.172.600.11 NMAC - N/E, 12-31-06]

8.172.600.12 RIGHTS TO APPEAL: The human services department will grant an opportunity for an administrative hearing when an applicant or recipient believes that HSD has taken an action erroneously regarding eligibility for the premium assistance program as described in 8.352.2 NMAC.
[8.172.600.12 NMAC - N/E, 12-31-06]

HISTORY OF 8.172.600 NMAC: [RESERVED]

NEW MEXICO BOARD OF PHARMACY

This is an amendment to 16.19.3.1 NMAC and adding new Section 15 effective 1-31-07.

16.19.3.1 ISSUING AGENCY: Regulation and Licensing Department - Board of Pharmacy, [~~1650 University Blvd, NE, Ste. 400B,~~] Albuquerque, NM [~~87102~~], (505) [~~841-9102~~] **222-9830**.
[02-15-96; 16.19.3.1 NMAC - Rn, 16 NMAC 19.3.1, 03-30-02; A, 01-31-07]

16.19.3.15 TEMPORARY LICENSE:

A. Persons who provide acceptable evidence of being currently licensed by examination under the laws of other states in the United States and the District of Columbia, shall be authorized to practice pharmacy for a period of (90) days from the date on receipt of a complete application and $50. Fee which will go towards the eventual licensing fee. Persons must become duly licensed in this state within (90) days. The licensing agency in each state in which the applicant holds or has held a license shall submit a statement to the board confirming the applicant to be or have been in good standing in that state.

B. The temporary licensee shall not act as the pharmacist-in-charge (unless there is no other pharmacist in the designated facility), a preceptor, or supervisor of interns or externs.

C. The temporary licensee shall be subject to discipline in the same manner as those holding a full license, and shall be subject to immediate suspension upon reasonable evidence of false or incorrect statements in the documents submitted or if found not to be in good standing in other states.

D. The temporary license shall not be renewed or extended.
[16.19.3.15 NMAC - N, 01-31-07]

NEW MEXICO BOARD OF PHARMACY

This is an amendment to 16.19.4 NMAC, Sections 7, 10, 16 and 17, effective 1-31-07.

16.19.4.7 DEFINITIONS: [~~[RESERVED]~~]

A. "A year" begins with the first day of the pharmacist's birth month and ends the last day of the pharmacist's birth month the following year.

B. "Activity" as used in the ACPE criteria for quality and these regulations, the term refers to an individual educational experience or program such as a lecture, home study course, workshop, seminar, symposium, etc.

C. "Alternate supervising physician" means a physician who holds a current unrestricted license, is a cosignatory on the notification of supervision, agrees to act as the supervising physician in the supervising physician's absence, or expand the "scope of practice and/or sites of practice" of the pharmacist clinician and is approved by the board.

D. "Approved provider" means an institution, organization or agency that has been recognized by the American council on pharmaceutical education (ACPE) as having met it's criteria indicative of the ability to provide quality continuing pharmaceutical education, and is listed in the ACPE annual publication of approved providers.

E. "Board" means the New Mexico board of pharmacy.

F. "Consultation" means communication in person, telephonically, by two-way radio, by e-mail or by other electronic means.

G. "Contract hour" means a unit of measure equivalent to approximatly 50 minutes of participation in an approved organized learning experience or activity.

H. "Continuing education unit (CEU)" means ten contact hours of participation or it's equivalent in an organized continuing education activity sponsored by an approved provider.

I. "Criteria for quality" means continuing education provider shall show evidence of adherence to the criteria adopted by the American council on pharmaceutical education as indicative of the ability to provide continuing pharmaceutical education activities; Areas include: administrative & organization; budget & resources; teaching staff; educational content management of activity; method of delivery; facilities; evaluation mechanism.

J. "Dangerous drug" means a drug that, because of any potentiality for harmful effect or the methods of its use or the collateral measures necessary to its use, is not safe except under the supervision of a physician licensed by law to direct the use of such drug and the drug prior to dispensing is required by federal law and state law to bear the manufacturer's legend "Caution: Federal law prohibits dispensing without a prescription".

K. "Guidelines or protocol" means a written agreement between a pharmacist clinician or group of pharmacist clinicians and a physician or group of physicians that delegates prescriptive authority.

L. "Initial pharmacist licensure" menas the license issued shall be valid for no less than 24 months. The license will expire the last date of his/her birth month that immediately follows the minimum 24 month time period.

M. "Mediated forms" means learning transmitted via intermediate mechnnism such as audio and/visual tape, telephonic transmission, etc.

N. "Monitor dangerous drug therapy" menas to review the dangerous drug therapy regimen of patients by a pharmacist clinician for the purpose of evaluating and rendering advice to the prescribing physician regarding adjustment of the regimen. "Monitor dangerous drug therapy" includes:

(1) collecting and reviewing patient dangerous drug histories;

(2) measuring and reviewing routine patient vital signs including pulse, temperature, blood pressure and respiration;

(3) ordering and evaluationg the results of laboratory tests relating to dnagerous drug therapy, including blood chemestries and cell counts, controlled substance therapy levels, blood, urine, tissue or other body fluids, culture and sensitivity tests when performed in accordance with guidelines or protocols applicable to the practice setting and;

(4) evaluating situations that require the immediate attention of the physician and instituting or modifying treatment procedures when necessary.

O. "Oversight committee" means a joint committee made up of (4) members to hear issues regarding pharmacist clinicians' prescriptive authority activities and supervising physicians' direction of these activities.

P. "Pharmaceutical care" means the provision of drug therapy and other patient care services related to drug therapy intended to achieve definite outcomes that improve a patient's quality of like, including identifying potential and actual drug-related problems, resolving actual drug-related problems and preventing potential drug-related problems;

Q. "Pharmacist" means a person duly licensed by the board to engage in the practice of pharmacy pursuant to the Pharmacy Act, Sections 61-11-1, 61-11-2, 61-11-4 to 61-11-28 NMSA 1978.

R. "Pharmacist clinician" means a pharmacist with additional training required by regulations adopted by the board in consultation with the New Mexico medical board and the New Mexico academy of physician assistants, who exercises prescriptive authority in accordance with guidelines or protocol.

S. "Pharmacist in charge" means a pharmacist who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs and who is personally in full and actual charge of the pharmacy and its personnel.

T. "Practice of pharmacy" means the evaluation and implementation of a lawful order of a licensed practitioner; the dispensing of prescriptions; the participation in drug and device selection or drug administration that has been ordered by a licensed practitioner, drug regimen reviews and drug or drug-related research; the administering or "practitioner" means a physician prescribing of dangerous drug therapy; the provision of patient counseling and pharmaceutical care; the responsibility for compounding and labeling of drugs and devices; the proper and safe storage of drugs and devices; and the maintenance of proper records.

U. "Practitioner" means a physician duly authorized by law in New Mexico to prescribe dangerous drugs including controlled substances in schedules II through V.

V. "Prescriptive authority" means the authority to prescribe, administer, monitor or modify dangerous drug therapy.

W. "Professional judgment" means a cognitive process, by alicensed pharmacist, that takes education, experience and current standards of practice into consideration when drawing conclusions and reaching decisions.

X. "Renewal period" means continuing education programs or activities must be completed during the 24 month time period occuring between the first day of the pharmacist's birth month and the last day of his/her birth month 2 years later.

Y. "Scope of practice" means those duties and limitations of duties placed upon a pharmacist clinician and/or the alternate supervising physician(s) and the board; includes the limitations implied by the field of practice of the supervising physician and/or the alternate supervising physician(s) and the board.

Z. "Supervising physician" means a doctor, or group of doctors, of medicine or osteopathy approved by the respective board to supervice a pharmacist clinician; "supervising physician includes a physician approved by the respective board as an alternate supervising physician.

[02-15-96; 16.19.4.7 NMAC - Rn, 16 NMAC 19.4.7, 03-30-02; A, 01-31-07]

16.19.4.10 CONTINUING EDUCATION REQUIREMENTS:

[~~A. DEFINITIONS:~~]

[~~(1)~~] **A.** Continuing education shall include study in one or more of the general areas of socioeconomic and legal aspects of health care; the properties and actions of drugs and dosage forms; etiology; characteristics and therapeutics of the disease state, or such other subjects as the board may from time to time approve. Continuing education approved in New Mexico shall be limited to programs and activities offered by an ACPE approved provider or pharmacy law programs offered by the N.M. board of pharmacy.

[~~(2) Approved provider: an institution, organization or agency that has been recognized by the American Council on Pharmaceutical Education (ACPE) as having met it's criteria indicative of the ability to provide quality continuing pharmaceutical education, and is listed in the ACPE annual publication of approved providers.~~]

[~~(3) A Continuing Education Unit (CEU): ten contact hours of participation or its' equivalent in an organized continuing education activity sponsored by an approved provider.~~]

[~~(4) Contact hour: a unit of measure equivalent to approximately 50 minutes of participation in an approved organized learning experience or activity.~~]

[~~(5) Activity, as used in the ACPE Criteria for Quality and these regulations, the term refers to an individual educational experience or program such as a lecture, home study course, workshop, seminar, symposium, etc.~~]

[~~(6) Criteria for Quality: the continuing education provider shall show evidence of adherence to the criteria adopted by the American Council on Pharmaceutical Education as indicative of the ability to provide continuing pharmaceutical education activities; Areas include: Administration & Organization; Budget & Resources; Teaching Staff; Educational Content~~

~~Management of Activity; Method of Delivery; Facilities; Evaluation Mechanism~~]

[~~(7) Mediated forms: learning transmitted via intermediate mechanism such as audio and/visual tape, telephonic transmission, etc.~~]

[~~(8) A "year": begins with the first day of the pharmacist's birth month and ends the last day of the pharmacist's birth month the following year.~~]

[~~(9) Renewal period: Continuing education programs or activities must be completed during the 24 month time period occuring between the first day of the pharmacist's birth month and the last day of his/her birth month 2 years later.~~]

[~~(10) Initial pharmacist licensure: The license issued shall be valid for not less than 24 months. The license will expire the last date of his/her birth month that immediately follows the minimum 24 month time period.~~]

B. Effective date. Continuing education, certified as completed by an approved provider will be required of a registered pharmacist who applies for renewal of New Mexico registration as follows: 3.0 CEU (30 contact hours) every two years. Effective date January 1, 2003.

C. The number of CEU's to be awarded for successful completion shall be determined by the approved provider in advance of the offering of the activity.

D. The board of pharmacy will accept any continuing education units for programs or activities completed outside the state; provided, the provider has been approved by the American council on pharmaceutical education under its' criteria for quality at the time the program was offered.

E. Continuing education will be required of all registrants holding an in-state status and out-of-state active status license. (61-11-13D). Pharmacists granted New Mexico initial licensure are exempt from C.E. requirements until the first full year renewal period. Inactive status licensees will be required to furnish continuing education, for the current licensing period, 1.5 CEU for each year the licensee was inactive, only for the purpose of reinstating to active status.

F. Not less than 10% of the registrants will be randomly selected each year by the board of pharmacy for audit of certificates by the state drug inspectors.

G. In the event a pharmacist makes an application for renewal and does not furnish necessary proof of compliance upon request, the board will afford the applicant opportunity for hearing pursuant to the Uniform Licensing Act.

H. [RESERVED]

I. [RESERVED]

J. Pharmacy Law Requirement For:

(1) Active Status: A minimum of 0.2 CEU (2 contact hours) of the 3.0 CEU (30 contact hours) required for registration renewal, shall be in the subject area pharmacy law as offered by the N.M. board of pharmacy. In lieu of a board program, pharmacists not residing and not practicing pharmacy in New Mexico, may complete an ACPE accredited course, in the subject [~~are~~] area pharmacy law, meeting the CEU requirements of this paragraph.

(2) Effective date. Registration renewals due June 1996 and thereafter.

(3) Licensees may obtain 0.1 CEU (1 contact hour) per year, in the subject area pharmacy law, by attending one full day of a regularly scheduled New Mexico board of pharmacy board meeting or serving on a board approved committee.

(4) Licensees who successfully complete an open book test, administered by the board, shall receive credit for 0.2 CEU (2 contact hours) in the subject area pharmacy law.

K. Board of Pharmacy Law Programs:

(1) Pharmacy law programs shall be offered in each of the five pharmacy districts, as defined in NMSA 61-11-4.E, a minimum of once every calendar year (January through December).

(2) Pharmacy law programs shall offer 0.2 CEU and be two contact hours in length.

[02-26-95; 16.19.4.10 NMAC - Rn, 16 NMAC 19.4.10, 03-30-02; A, 12-15-02; A, 01-31-07]

16.19.4.16 RESPONSIBILITIES OF PHARMACIST AND PHARMACIST INTERN:

A. The following responsibilities require the use of professional judgement and [~~shall~~] therefore **shall** [~~only~~] be performed **only** by a pharmacist or pharmacist intern:

(1) receipt of all new verbal prescription orders and reduction to writing;

(2) initial identification, evaluation and interpretation of the prescription order and any necessary **clinical** clarification prior to dispensing;

(3) professional consultation with a patient or his agent regarding a prescription;

(4) evaluation of available clinical data in patient medication record system;

(5) oral communication [~~to~~] **with** the patient or patient's agent of information, as defined in this section under patient counseling, in order to improve therapy by ensuring proper use of drugs and devices;

(6) professional consultation with the prescriber, the prescriber's agent, or any other health care professional or authorized agent regarding a patient and any medical information pertaining to the prescription.

B. Only a Pharmacist Shall Perform The Following Duties:

(1) final check on all aspects of the completed prescription including sterile products and cytotoxic preparations, and assumption of the responsibility for the filled prescription, including, but not limited to, appropriateness of dose, accuracy of drug, strength, labeling, verification of ingredients and proper container;

(2) evaluation of pharmaceuticals for formulary selection within the facility;

(3) supervision of all supportive personnel activities including preparation, mixing, assembling, packaging, labeling and storage of medications;

(4) ensure that supportive personnel have been properly trained for the duties they may perform;

(5) any verbal communication with a patient or patient's representative regarding a change in drug therapy or performing therapeutic interchanges (i.e. drugs with similar effects in specific therapeutic categories); this does not apply to substitution of generic equivalents;

(6) any other duty required of a pharmacist by any federal or state law.

C. Patient Records.

(1) A reasonable effort must be made to obtain, record and maintain at least the following information:

(a) name, address, telephone number, date of birth (or age) and gender of the patient;

(b) individual medical history, if significant, including disease state or states, known allergies and drug reactions and a comprehensive list of medications and relevant devices; and

(c) pharmacists comments relevant to the individuals drug therapy.

(2) Such information contained in the patient record should be considered by the pharmacist or pharmacist intern in the exercise of their professional judgement concerning both the offer to counsel and the content of counseling.

D. Prospective Drug Review.

(1) A pharmacist or pharmacist intern shall review the patient record for:

(a) clinical abuse/misuse;

(b) therapeutic duplication;

(c) drug-disease contraindications;

(d) drug-drug interactions;

(e) incorrect drug dosage;

(f) incorrect duration of drug treatment;

(g) drug-allergy interactions;

(h) appropriate medication indication.

(2) Upon recognizing any of the above, the pharmacist shall take appropriate steps to avoid or resolve the problem which shall, if necessary, include consultation with the prescriber.

E. Counseling.

(1) Upon receipt of a new prescription drug order and following a review of the patient's record, a pharmacist or pharmacist intern shall personally offer to counsel on matters which will enhance or optimize drug therapy with each patient or the patient's agent. Upon receipt of a refill prescription drug order a pharmacy technician may query the patient or patient's agent regarding counseling by the pharmacist or pharmacist intern concerning drug therapy. Such counseling shall be in person, whenever practicable, or by telephone, and shall include appropriate elements of patient counseling which may include, in their professional judgement, one or more of the following:

(a) the name and description of the drug;

(b) the dosage form, dosage, route of administration, and duration of drug therapy;

(c) intended use of the drug and expected action;

(d) special directions and precautions for preparation, administration and use by the patient;

(e) common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance and the action required if they occur;

(f) techniques for self-monitoring drug therapy;

(g) proper storage;

(h) prescriptions refill information;

(i) action to be taken in the event of a missed dose;

(j) the need to check with the pharmacist or practitioner before taking other medication; and

(k) pharmacist comments relevant to the individual's drug therapy, including any other information peculiar to the specific patient or drug.

(2) [REPEALED]

(3) Alternative forms of patient information may be used to supplement patient counseling when appropriate. Examples include, but not limited to, written information leaflets, pictogram labels and video programs.

(4) Patient counseling, as described above and defined in this regulation shall not be required for in-patients of a hospital or institution where other licensed health care professionals are authorized to administer the drug(s).

(5) A pharmacist shall in no way attempt to circumvent or willfully discourage a patient or patient's agent from receiving counseling. However, a pharmacist shall not be required to counsel a patient or patients's agent when the patient or patients's agent refuses such consultation.

(6) When the patient or agent is not present when the prescription is dispensed, including but not limited to a prescription that was shipped by the mail, the pharmacist shall ensure that the patient receives written notice of available counseling. Such notice shall include days and hours of availability, and: (1) of his or her right to request counseling; and (2) a toll-free telephone number in which the patient or patient's agent may obtain oral counseling from a pharmacist who has ready access to the patient's record. For pharmacies delivering more than 50% of their prescriptions by mail or other common carrier, the hours of availability shall be a minimum of 60 hours per week and not less than 6 days per week. The facility must have sufficient toll-free phone lines and personnel to provide counseling within 15 minutes.

(7) In every pharmacy there shall be prominently posted in a place conspicuous to and readable by prescription drug consumers a notice concerning available counseling.

F. [REPEALED]

G. Regulatory Assessment. Profiles, either electronic or hard copy, shall be available for inspection, and shall provide the capability of storing the described historical information. The profiles must demonstrate that an effort is being made to fulfill the requirements by the completion of the detail required. A patient record shall be maintained for a period of not less than three (3) years from the date of the last entry in the profile record.

[08-27-90; 16.19.4.16 NMAC - Rn, 16 NMAC 19.4.16, 03-30-02; 16.19.4.16 NMAC - Rn, 16.19.4.17 NMAC, 12-15-02; A, 02-01-04; A, 11-30-04; A, 01-15-2005; A, 01-31-07]

16.19.4.17 PHARMACIST CLINICIAN:

A. Purpose: The purpose of these regulations is to implement the Pharmacist Prescriptive Authority Act, Sections 61-11B-1 through 61-11B-3 NMSA 1978 by providing minimum standards, terms and conditions for the certification, **registration**, practice, and supervision of pharmacist clinicians. These regulations are adopted pursuant to Section 61-11B-3 of the Pharmacist Prescriptive Authority Act.

[~~**B.** DEFINITIONS:~~]

[~~(1) Board means the New Mexico Board of Pharmacy.~~]

[~~(2) "Dangerous drug" means a drug that, because of any potentiality for harmful effect or the methods of its use or the collateral measures necessary to its use, is not safe except under the supervision of a practitioner licensed by law to direct the use of such drug and the drug prior to dispensing is required by federal law and state law to bear the manufacturer's legend "Caution: Federal law prohibits dispensing without a prescription".~~]

[~~(3) "Guidelines or protocol" means a written agreement between a pharmacist clinician or group of pharmacist clinicians and a practitioner or group of practitioners that delegates prescriptive authority.~~]

[~~(4) "Monitor dangerous drug therapy" means to review the dangerous drug therapy regimen of patients by a pharmacist clinician for the purpose of evaluating and rendering advice to the prescribing practitioner regarding adjustment of the regimen. "Monitor dangerous drug therapy" includes:~~

~~(a) collecting and reviewing patient dangerous drug histories;~~

~~(b) measuring and reviewing routine patient vital signs including pulse, temperature, blood pressure and respiration;~~

~~(c) ordering and evaluating the results of laboratory tests relating to dangerous drug therapy, including blood chemistries and cell counts, controlled substance therapy levels, blood, urine, tissue or other body fluids, culture and sensitivity tests when performed in accordance with guidelines or protocols applicable to the practice setting; and~~

~~(d) evaluating situations that require the immediate attention of a physician and instituting or modifying treatment procedures when necessary.~~]

[~~(5) "Oversight committee" means a joint committee made up of four (4) members to hear issues regarding pharmacist clinicians' prescriptive authority activities and supervising practitioners' direction of these activities.~~]

[~~(6) "Pharmacist" means a person duly licensed by the Board to engage in the practice of pharmacy pursuant to the Pharmacy Act, Sections 61-11-1, 61-11-2, 61-11-4 to 61-11-28 NMSA 1978.~~]

[~~(7) "Pharmacist clinician" means a pharmacist with additional training required by regulations adopted by the Board in consultation with the New Mexico Board of Medical Examiners and the New Mexico Academy of Physician Assistants, who exercises prescriptive authority in accordance with guidelines or protocol.~~]

[~~(8) "Practitioner" means a physician duly authorized by law in New Mexico to prescribe dangerous drugs including controlled substances in Schedules II through V.~~]

[~~(9) "Prescriptive authority"~~

~~means the authority to prescribe, administer, monitor or modify dangerous drug therapy.~~]

[~~(10) "Supervising practitioner" means a doctor, or group of doctors, of medicine or osteopathy approved by the respective Board to supervise a pharmacist clinician; "supervising practitioner" includes a practitioner approved by the respective Board as an alternate supervising practitioner.~~]

[~~(11) "Scope of practice" means those duties and limitations of duties placed upon a pharmacist clinician by the supervising practitioner, the Board, and applicable law, and includes the limitations implied by the specialty practiced by the supervising practitioner.~~]

[~~C.~~] **B.** Initial Certification **and Registrants**:

(1) The board may certify **and register** a pharmacist as a pharmacist clinician upon completion of an application for certification and satisfaction of the requirements set forth in these regulations.

(2) A pharmacist who applies for certification **and registration** as a pharmacist clinician shall complete application forms as required by the board and shall pay a fee. The fee shall be set by the board to defray the cost of processing the application, which fee is not returnable.

(3) To obtain initial certification **and registration** as a pharmacist clinician, [~~an applicant must provide proof that the applicant has satisfied one of~~] **she/he must submit** the following:

(a) [~~if the applicant is an actively licensed pharmacist, achievement of national certification as a physician assistant; or~~] **proof of completion of sixty (60) hour board approved physical assessment course, followed by a 150 hour, 300 patient contact preceptorship supervised by a physician or other practitioner with prescriptive authority, with hours counted only during direct patient interactions;**

(b) [~~satisfactory completion of an academic curriculum which includes a minimum of sixty (60) hours of physical assessment training followed by nine (9) months of supervised clinical experience involving assessment skills; or~~] **the applicant will submit a log of patient encounters as part of the application;**

(c) [~~satisfactory completion of a 60-hour physical assessment course approved by the Board and a 150-hour, 300 patient contact preceptorship supervised by a physician and approved by the Board, and achievement of a passing score as defined by the Board on an appropriate exam approved by the Board, or~~] **patient encounters must be initialed and completed within 2 years of the application.**

[~~(d) if the applicant is certified by the Indian Health Service's Pharmacist Practitioner Program, documentation of 600 patient contacts within the past two years as a pharmacist practitioner, accompanied by a supporting affidavit from the supervising physician.~~]

(4) The board shall [~~issue a document of certification to~~] **register** each pharmacist certified as a pharmacist clinician. [~~A copy of the document of certification shall at all times be maintained at each place of practice of the pharmacist clinician. The initial certification will expire on the same date as the clinicians pharmacist license. The Board may prorate the fee based on the number of months of certification from the date of issue to the date of expiration.~~]

(5) Upon certification **and registration** by the board, the name and address of the pharmacist clinician, **(**name of the supervising [~~practitioner~~] **physician if applicable)**, and other pertinent information shall be enrolled by the board on a roster of pharmacist clinicians.

[~~(6) No person shall represent that he or she is certified as a pharmacist clinician without maintaining current certification with the Board.~~]

[~~D.~~] **C. Biennial** Renewal of [~~Certification~~] **Registration**:

(1) [~~Every pharmacist clinician certified to practice in New Mexico shall apply during the month of his or her birth to the Board for renewal of certification as a pharmacist clinician for the ensuing two year period.~~] **Renewal applications shall be submitted prior to the license expiration.**

(2) Applications for renewal must include:

(a) [~~statement of the pharmacist clinician's name and current address;~~] **documentation of continuing education hours, including proof of completion of twenty (20) hours of American council of pharmaceutical education approved (ACPE) or category I of the American medical association approved (AMA), (live continuing education meeting, seminar, workshop, symposium), beyond the required hours in 16.19.4.10 NMAC (as amended), as required by the board; and**

(b) [~~guidelines or protocol, if the pharmacist clinician seeks to exercise prescriptive authority;~~] **a current protocol of collaborative practice signed by the supervising physician (if prescriptive authority is sought); and**

(c) [~~documentation of continuing education hours, including proof of completion of twenty (20) hours of American Council of Pharmaceutical Education approved (ACPE) or Category I of the American Medical Association approved live continuing education (meeting, seminar, workshop, symposium), beyond the required hours in 16.19.4.10 NMAC (as amended), as required by the Board; and~~] **a copy of the pharmacist clinicians registration with the supervising physicians board (if prescriptive authority is sought); and**

(d) other additional information as requested by the board.

[~~E.~~] **D.** Prescriptive Authority, Guidelines or Protocol:

(1) [~~No pharmacist clinician may exercise prescriptive authority unless guidelines or protocol from the current supervising practitioner are on file with the Board.~~] **Only a registered pharmacist clinician with current protocols, registered with the New Mexico medical board or the New Mexico board of osteopathic medical examiners, may exercise prescriptive authority.**

(2) A [~~certified~~] pharmacist clinician seeking to exercise prescriptive authority shall submit an application to the board. The application must include the supervising [~~practitioner's~~] **physicians'** name and current medical license, [~~guidelines or~~] protocol **of collaborative practice** and other information requested by the board. A pharmacist may submit the application with the initial application for certification or as a separate application after becoming certified **and registered** as a pharmacist clinician.

(3) The [~~guidelines or~~] protocol will be established and approved by the supervising [~~practitioner~~] **physician** as set forth in these regulations and will be kept on file at each practice site of the pharmacist clinician and with the board.

(4) The [~~guidelines or~~] protocol must include:

(a) name of the [~~practitioner~~] **physician(s)** authorized to prescribe dangerous drugs and name of the pharmacist clinician;

(b) statement of the types of prescriptive authority decisions the pharmacist clinician is authorized to make, including, but not limited to:

(i) types of diseases, dangerous drugs or dangerous drug categories involved and the type of prescriptive authority authorized in each case;

(ii) procedures, decision criteria or plan the pharmacist clinician is to follow when exercising prescriptive authority;

(c) activities to be followed by the pharmacist clinician while exercising prescriptive authority, including documentation of feedback to the authorizing [~~practitioner~~] **physician** concerning specific decisions made; documentation may be made on the prescriptive record, patient profile, patient medical chart or in a separate log

book;

(d) description of appropriate mechanisms for [~~reporting to~~] **consulting with** the supervising [~~practitioner~~] **physician, including a quality assurance program for review of medical services provided by the pharmacist clinician, (this quality assurance program will be available for board review)**; and

(e) description of the scope of practice of the pharmacist clinician.

[~~F.~~] **E.** Scope of Practice:

(1) A pharmacist clinician shall perform only those services that are delineated in the [~~guidelines or~~] protocol and are within the scope of practice of the supervising [~~practitioner~~] **physician and/or alternate supervising physician(s)**.

(2) A pharmacist clinician may practice in a health care institution within the policies of that institution.

(3) A pharmacist clinician may prescribe controlled substances provided that the pharmacist clinician (i) has obtained a New Mexico controlled substances registration and a drug enforcement agency registration, and (ii) prescribes controlled substances within the parameters of written guidelines or protocols established under these regulations and Section 3, A. of the Pharmacist Prescriptive Authority Act.

(4) The board may, in its discretion after investigation and evaluation, place limitations on the tasks a pharmacist clinician may perform under the authority and direction of a supervising [~~practitioner~~] **physician and/or alternate supervising physician(s)**.

[~~G.~~] **F.** [~~RELATIONSHIP OF PHARMACIST CLINICIANS TO DESIGNATED SUPERVISING PRACTITIONERS~~] **Collaborative Professional Relationship Between Pharmacist Clinicians and Supervising Physician(s)**:

(1) The direction and supervision of pharmacist clinicians may be rendered by approved supervising [~~practitioners and not through intermediaries.~~] **physician/designated alternate supervising physician(s).**

(2) [~~A pharmacist clinician must meet in person with the supervising practitioner or the supervising practitioner's Board-approved alternate at least once every two (2) weeks to discuss patient management. Supervising practitioners must provide direction to pharmacist clinicians to specify the pharmacotherapeutic services to be provided under the circumstances in each case.~~] This **direction** may be done by written [~~guidelines or~~] protocol or by oral [~~communications in person, over the phone or by other electronic means~~] **consultation**. It is the responsibility of the supervising [~~practitioner~~] **physician** to assure that the appropriate directions are given and understood.

(3) [~~The supervising practitioner must visit the premises of the pharmacist clinician's practice at least once every sixty (60) days in a nursing home setting and once every fourteen (14) days in the primary place of practice of the pharmacist clinician, and evaluate the quality of all pharmacotherapeutic services rendered by the pharmacist clinician by reviewing not less than twenty percent (20%) of all medical records to assure compliance with the guidelines or protocol and directions.~~] **The pharmacist clinician must have prompt access to consultation with the physician for advice and direction.**

(4) [~~If the supervising practitioner is of the opinion that circumstances warrant exceptions to the requirements set forth in paragraphs A, B or C [1, 2 or 3] above, the supervising practitioner must specify the circumstances in writing and deliver the same to the Secretary of the State of New Mexico Board of Medical Examiners or the State of New Mexico Board of Osteopathic Medical Examiners. The respective Board will review, grant or deny requests for exceptions or waivers, in the Board's discretion~~] **Upon any change in supervising physician between registration renewals, a pharmacist clinician shall submit to the board, within ten (10) working days, the new supervising physician's name, current medical license, and protocol; notification to and completion of requirements for the supervising physicians' board shall be completed per that boards requirements. This notice requirement does not apply to an alternate supervising physician who is designated to cover during the absence of the supervising physician.**.

[~~(5) Documentation of the supervising practitioner's reviews must be retained by the pharmacist clinician and be available for Board inspection for a period of not less than five (5) years from the date of review.~~]

[~~(6) The pharmacist clinician must function in reasonable proximity to the supervising practitioner and must have prompt access to the practitioner by telephone or two-way radio or two-way television or other electronic means for advice and direction. "Reasonable proximity" means a location not more than 120 miles or two hours, whichever is greater, from the supervising practitioner.~~]

[~~(7) If the supervising practitioner plans to be or is absent from his or her practice for any reason, the supervising practitioner cannot designate a pharmacist clinician to take over those duties or cover the practice during such absence. The supervising practitioner may designate an alternate supervising practitioner, approved by the respective Board, to cover the practice and perform the duties of supervising practitioner. The alternate supervising practitioner will then supervise the pharmacist clinician and will be responsible for the pharmacist clinician's actions or omissions in exercising prescriptive authority or other duties as a pharmacist clinician.~~]

[~~(8) Upon any change in supervising practitioner between annual renewals of certification, a pharmacist clinician shall submit to the Board within ten (10) working days, the new supervising practitioner's name, current medical license, and guidelines or protocol. This notice requirement does not apply to an alternate supervising practitioner who is designated to cover during the absence of the supervising practitioner.~~]

[~~(9) The Chair of the Board will appoint two (2) members of the Board, and the President of the supervising practitioner's respective Board will appoint two (2) members of the respective Board to the oversight committee. The oversight committee will make a report that may include non-binding recommendations to both the Board and respective Board regarding disciplinary action. Each Board can accept or reject the recommendations.~~]

[~~H.~~] **G. Complaints and** APPEALS[~~:~~]**:** [~~Any applicant for certification or any certified pharmacist clinician may appeal a decision of the Board in accordance with the provisions of the Uniform Licensing Act, Sections 61-1-1 to 61-1-33 NMSA 1978.~~]

(1) The chair of the board will appoint two (2) members of the board, and the president of the supervising physician respective board will appoint (2) members of the respective board to the oversight committee; the oversight committee will review complaints concerning the pharmacist clinician practice; the oversight committee will make a report that may include non-binding recommendations to both the board and respective board(s) regarding disciplinary action. Each board can accept or reject the recommendations.

(2) Any applicant for certification or any pharmacist clinician may appeal a decision of the board in accordance with the provisions of the Uniform Licensing Act, Sections 61-1-1 to 61-1-33 NMSA 1978.

[03-14-98; 16.19.4.17 NMAC - Rn, 16 NMAC 19.4.17, 03-30-02; 16.19.4.17 NMAC - Rn, 16.19.4.18 NMAC, 12-15-02; A, 09-30-03; A, 01-31-07]

NEW MEXICO BOARD OF PHARMACY

This is an amendment to 16.19.7 NMAC, Sections 9 and 11, effective 1-31-07.

16.19.7.9 FACILITIES:

A. The hospital pharmacy shall be enclosed and locked if a pharmacist is not present in the facility. Adequate security systems shall be maintained and be consistent with the security plan of the facility.

B. The pharmacist-in-charge shall control access to the pharmacy and develop an emergency access procedure that may include the following situations or conditions:

(1) The hospital administrator or designee may possess a key to the pharmacy for emergency access.

(2) For the purposes of withdrawing limited doses of a drug for administration in emergencies when the pharmacy is closed, if the drugs are not available in floor or emergency drug supplies, the following is applicable:

(a) Only one designated licensed nurse per shift may remove drugs from the pharmacy. The quantity of drugs shall not exceed the quantity needed to last until the pharmacist is in the facility:

(b) A record shall be made at the time of withdrawal by the authorized person removing the drugs. The record shall contain the following:

(i) name of patient;

(ii) name of drug, strength, and dosage form;

(iii) dose prescribed;

(iv) quantity taken;

(v) time and date; and

(vi) signature (first initial and last name or full signature) or electronic signature of person making the withdrawal.

(c) The original or direct copy of the medication order may substitute for such record, providing the medication order meets all of the requirements of 16.19.7.9.B(2)(b) NMAC (record).

(d) The nurse withdrawing the drug shall place upon the record of withdrawal an example of the medication removed.

(e) An electronic record of the withdrawal is required when the nurse is withdrawing more than a 72 hour supply.

(f) The pharmacist shall verify the withdrawal after a reasonable interval, but in no event may such interval exceed 72 hours from time of withdrawal. Verification may be accomplished electronically from a remote site, if approved by the board.

(g) 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.

(h) Another duly registered pharmacy may supply medications pursuant to a patient specific medication order provided:

(i) supplying pharmacy is licensed in this state;

(ii) supplying pharmacist is licensed in this state;

(iii) all pharmacy preparations of sterile products (including total parenteral nutrition and chemotherapy) shall be performed in accordance with board of pharmacy 16.19.6.11 NMAC.

(3) The pharmacist-in-charge or designated pharmacist, intern or technician may prepackage drugs for emergency withdrawal.

C. A pharmacist shall be "on call" during all absences from the facility.

D. A hospital pharmacy shall have within the institutional facility it services sufficient floor space allocated to ensure that pharmaceutical services are provided in an environment which allows for the proper compounding, dispensing and storage of medications. The minimum required pharmacy floor space excluding office area is:

Average daily census including skilled beds	Specialty designation	1-25	26-50	51-100	101-200	201-500	>500
Minimum Square Feet	Adequate	Adequate	280	500	750	1000	1500
Min. Sq. Ft. for Sterile Prep Area (in addition to above)	100	100	100	100	100	100	100

A hospital may petition the board for a variance to the required minimum square footage. The license application shall include an average daily inpatient census for the last year.

E. Specialty Designation:

(1) Adequate square footage will be decided by the board at the time of licensure. The yearly license application will be accompanied by photos and a drawing of the pharmacy area. The board may ask for more detailed information to make a determination.

(2) A hospital must petition the board for a specialty designation. The board may consider, but is not limited to the following:

(a) size of facility;

(b) type of patient population; or

(c) number and types of drugs stored and dispensed from the pharmacy.

F. Hospitals having licensed outpatient pharmacies shall comply with retail pharmacy 16.19.6.10 NMAC.

G. The hospital pharmacy shall have the necessary equipment for the safe and appropriate storage, compounding, packaging, labeling, dispensing and preparation of drugs and parenteral products depending on the scope of pharmaceutical services provided.

(1) Refrigerator.

(2) Sink with hot and cold water.

H. Only one registered or certified pharmacy technician may be present in the pharmacy when the pharmacist is not in the facility, only to perform clerical tasks. A written log shall be maintained of technician activities while alone in the pharmacy

[08-16-99; 16.19.7.9 NMAC - Rn, 16 NMAC 19.7.9, 03-30-02; A, 04-30-03; A, 01-31-07]

16.19.7.11 DRUG DISTRIBUTION AND CONTROL:

A. In hospitals where there is not a pharmacy, prelabeled, prepackaged medications shall be stored in and distributed from a drug storage area or automated medication management system, which is under the supervision of a pharmacist.

B. The pharmacist-in-charge shall have the responsibility for the procurement and storage of all drugs.

C. All medications, with the exception of those for emergency use, shall be issued for inpatients use pursuant to the review of the physician's order or direct copy thereof, prior to dispensing. If the pharmacy is closed when the order is written, the pharmacist shall review the order within 24 hrs.

D. A medication profile for all inpatients and outpatients shall be maintained and used. The medication profile shall serve as the distribution record for inpatient medications. Dangerous drug distribution records, for inpatient use, must include the following information:

(1) the patient's name and room (or bed) number;

(2) the name, strength, quantity and dosage form of the drug distributed;

(3) the name of the technician filling the drug order and pharmacist responsible

for checking the technician's work; or

(4) the name of the pharmacist or pharmacist intern filling the drug order;

(5) the date filled; and

(6) the date and amount of unwanted/ unused drug returned to the pharmacy stock;

(7) records for schedule II controlled substances must be kept separate; and

(8) schedule III-V must be kept separate or if stored with non-controlled records, readily retrievable.

E. Floor stock dangerous drug distribution records must include the following:

(1) name, strength, dosage form, and quantity of the drug distributed;

(2) date of filling;

(3) a name of technician filling the drug order and the supervising pharmacist; or

(4) the name of the pharmacist or pharmacist intern filling the drug order;

(5) the destination location of the drug in the hospital; and

(6) the date and quantity of unwanted/ unused drug returned to the pharmacy's stock;

(7) schedule II controlled substance records must be kept separate from all other records; and

(8) schedule IV controlled substance records must either be kept separate from other non-controlled substances records or are readily retrievable.

F. Dangerous drug distribution records, inpatient and floor stock, and medication profiles may be stored electronically if such system is capable of producing a printout of all the required information and the information is retrievable within 72 hours upon demand. The pharmacist stating that it is a true and accurate record must certify the printout. Hospitals utilizing automated drug distribution must comply with Subsection M of 16.19.7.11 NMAC in lieu of the above. Hospital pharmacies are subject to all applicable state and federal record keeping requirements when a prescription from a licensed practitioner is filled.

G. A distribution system for controlled substances shall be maintained including perpetual inventory of all schedule II controlled substances. All schedule II controlled substances that are stored in the pharmacy will be kept in a locked storage area in the pharmacy.

H. Drug storage and preparation areas within the facility shall be the responsibility of the pharmacist-in-charge. All areas shall be inspected on a monthly basis and documented by a pharmacist, intern or technician.

I. All pharmacy preparations of sterile products shall be performed in accordance with the sterile products regulations, 16.19.6 NMAC.

J. Floor stock drugs, including those issued from automated medication management systems, shall be limited to drugs for emergency use and routinely used items as listed in the pharmacy policy and procedure manual and approved by the pharmacy and therapeutics committee. Floor stock drugs shall be supplied in individual doses unless the bulk container cannot be individualized. Dangerous drug floor stock must be reviewed by the pharmacist or pharmacist intern on a routine basis to insure appropriate use.

K. Where such committees exist, the pharmacist-in-charge or designated pharmacist shall be a voting member of the pharmacy and therapeutics committee or its equivalent.

L. Medications dispensed in the emergency room will be dispensed only by a licensed pharmacist, a licensed pharmacist intern or a licensed practitioner and shall comply with the following:

(1) a record shall be kept of all medications dispensed from the emergency room of a hospital; the record shall include:

(a) the date the drug was dispensed;

(b) name and address of the patient;

(c) name of the prescribing physician;

(d) the name of the drug;

(e) the strength of the drug;

(f) the quantity of drug dispensed;

(g) initials of the person recording the information if not a physician;

(2) a separate record shall be kept for schedule II controlled substances;

(3) the following will be recorded in the patient's medical chart:

(a) the name of the drug(s) prescribed;

(b) the strength of the drug;

(c) the quantity of the drug dispensed;

(4) when medications are prescribed by the physician and dispensed to the patient in the emergency room of the hospital the dispensing label shall contain the following information:

(a) the name of the patient;

(b) the name of the prescribing physician;

(c) name of the drug;

(d) strength of the drug;

(e) quantity of the drug;

(f) name and address of the hospital;

(g) date the drug is dispensed;

(h) directions for use;

(i) expiration date of medication.

M. Automated Pharmacy Systems.

(1) General Statement: Automated devices for storage and distribution of floor stock or patient profile drugs or both, shall be limited to licensed health care facilities and shall comply with all the following provisions. Written policies and procedures, approved by the appropriate health care facility committee, shall be in place to ensure safety, accuracy, security, and patient confidentiality. Personnel allowed access to an automated dispensing device shall have a confidential access code that records the identity and electronic signature of the person accessing the device.

(2) Security/Access: The control of access to the automated device must be controlled by the pharmacist-in-charge. Proper identification and access control, including electronic passwords or other coded identification, must be limited and authorized by the pharmacist-in-charge. The pharmacist-in-charge must be able to stop or change access at any time. The pharmacist-in-charge must maintain a current and retrievable list of all persons who have access and the limits of that access. Review of user access reports shall be conducted at least quarterly as established by policy and procedures to ensure that persons who are no longer employed at the facility do not have access to the system.

(3) Records: The records kept by the automated drug delivery system must comply with all state, federal, and board requirements. Records must be maintained by the pharmacy and be readily retrievable. Records may be retained in hard copy or an alternative data retention system may be used where current technology allows.

(4) Automated Drug Distribution: An automated medication management system shall be under the control of the pharmacist-in-charge. If used for storage and dispensing of doses scheduled for administration, there shall be a procedure by which orders for a drug are reviewed and approved by the pharmacist before the drug may be withdrawn from the automated dispensing device. There shall be written procedures for downtime in the event of system malfunction or otherwise inoperable. A downtime log shall be maintained and include:

(a) date of transaction;

(b) patient;

(c) drug/dose;

(d) quantity of transaction;

(e) nurse signature;

(f) beginning count;

(g) ending count;

(h) wasted amount;

(i) witness signature, if needed; and

(j) prescriber (for controlled substances only).

(5) Quality Assurance: The pharmacist-in-charge shall be responsible for developing and implementing a quality assurance program which monitors total

system performance. Quality monitors shall include:

(a) the proper loading/refilling of the device, including proof of delivery;

(b) the proper removal, return or waste of drugs;

(c) processes for recording, resolution, and reporting of discrepancies; and

(d) processes for conducting periodic audits to assure compliance with policies and procedures.

(6) Records: Transaction records: At the time of any event involving the contents of the automated device, the device shall automatically produce on demand, a written or electronic record showing:

(a) the date and time of transaction;

(b) the type of transaction;

(c) the name, strength, and quantity of medication;

(d) the name of the patient for whom the drug was ordered;

(e) the name or identification code (electronic signature) of the person making the transaction;

(f) the name of the attending, admitting or prescribing practitioner; and

(g) the identity of the device accessed.

(7) Delivery Records: A delivery record shall be generated on demand for all drugs filled into an automated dispensing device which shall include:

(a) date;

(b) drug name;

(c) dosage form

(d) strength;

(e) quantity;

(f) identity of device; and

(g) name or initials of the person filling the automated dispensing device.

(8) Filling: There shall be policies and procedures in place, utilizing either manual , bar coding or other electronic processing means of item identities as current technology allows, to ensure pharmacist verification of accuracy in the filling and refilling of the automated device. A delivery record of medications filled into an automated pharmacy system shall be maintained and shall include identification of the person filling the device.

(9) Labeling/Packaging: Drugs filled into automated dispensing devices shall be in manufacturers' sealed, original packaging or in repackaged containers in compliance with the requirements of the board regulations relating to packaging and labeling.

N. Outsourcing of Pharmaceutical Services: A hospital pharmacy may contract or enter into an agreement with another licensed pharmacy/pharmacist to provide pharmaceuticals and/or other pharmacist services under the following conditions:

(1) the contract pharmacy is licensed by the board of pharmacy;

(2) the pharmacist providing the services by the contracted pharmacy shall be licensed as a pharmacist in this state;

(3) the contract is incorporated into the pharmacy's policy and procedure manual and complies with the requirements of 16.19.7 NMAC;

(4) the contracted pharmacy/pharmacist must have complete access to the patient's profile in order to perform a drug regimen review;

(5) the contracted pharmacy/pharmacist must have access to the licensed practitioners of the hospital;

(6) records of all pharmaceuticals transferred from the contracted pharmacy to the hospital pharmacy comply with the requirements;

(7) documentation of the services provided by the contracted pharmacy/pharmacist.

[08-16-99; 16.19.7.11 NMAC - Rn, 16 NMAC 19.7.11, 03-30-02; A, 01-31-07]

NEW MEXICO BOARD OF PHARMACY

This is an amendment to 16.19.12 NMAC, Sections 1, 12, and 13, effective 1-31-07.

16.19.12.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Pharmacy, Albuquerque, NM, (505) [~~841-9102~~] **222-9830**.

[02-15-1889...02-15-96; 16.19.12.1 NMAC - Rn, 16 NMAC 19.12.1, 03-30-02; A, 12-15-02; A, 01-31-07]

16.19.12.12 LICENSE/REGISTRATION RENEWAL:

A. Pharmacist license renewal for active $200.00 [~~bi-ennialy~~] **bi-ennially**

B. Pharmacist license renewal for in-active $70.00 [~~bi-ennialy~~] **bi-ennially**

C. Intern renewal $30.00 per year

D. Duplicate license for interns and pharmacists $10.00

E. Controlled substance registration $60.00

F. Duplicate license for controlled substance $10.00

G. Pharmacy technician renewal $30.00 [~~bi-ennialy~~] **bi-ennially**

H. Pharmacist clinician $70.00 [~~bi-ennialy~~] **bi-ennially**

I. Pharmacist license renewal for active pharmacists with 50 or more years of service - $70.00 [~~bi-ennialy~~] **bi-ennially**

J. Note: Waiver of License Renewal Fees: The board of pharmacy waives the renewal fee set forth in regulation 16.19.12.12 for individuals who are currently serving in the United States military in an active war zone or who serve in direct support of operation in active war zones.

[03-07-80...08-27-90; A, 07-31-98; A, 11-14-98; 16.19.12.12 NMAC - Rn, 16 NMAC 19.12.12, 03-30-02; A, 12-15-02; A, 09-30-03; A, 07-15-04; A, 12-15-05; A, 01-31-07]

16.19.12.13 LICENSE FEES:

A. License fee for drug manufacturer $700.00 [~~bi-ennialy~~] **bi-ennially**

B. Wholesale drug distributor $700.00 [~~bi-ennialy~~] **bi-ennially**

C. Drug manufacturer/repackager $700.00 [~~bi-ennialy~~] **bi-ennially**

D. Re-packager $700.00 [~~bi-ennialy~~] **bi-ennially**

E. Retail pharmacy license $300.00 [~~bi-ennialy~~] **bi-ennially**

F. Hospital pharmacy license $300.00 [~~bi-ennialy~~] **bi-ennially**

G. Hospital drug room pursuant to Section 61-11-7 of Pharmacy Act $60.00

H. Duplicate license $10.00

I. Nonresident pharmacies $400.00 [~~bi-ennialy~~] **bi-ennially**

J. Seller or dispenser of contact lenses $400.00 [~~bi-ennialy~~] **bi-ennially**

K. Alternative reduced licensure fee for wholesale drug distributor/manufacturer/re-packager as determined by the board or board's designee.

L. Dangerous drug research $200.00 bi-ennially

[03-07-80...05-01-93; 16.19.12.13 NMAC - Rn, 16 NMAC 19.12.13, 03-30-02; A, 09-30-03; A, 07-15-04; A, 01-15-2005; A, 12-15-05; A, 01-31-07]

NEW MEXICO BOARD OF PHARMACY

This is an amendment to 16.19.20 NMAC Sections 31, 67 and 69, effective 1-31-07.

16.19.20.31 PHARMACY AND HOSPITAL PRESCRIPTION AND DISPENSING RECORDS:

A. Prescriptions for Schedule II shall be maintained in a separate file. [~~The name of the pharmacist fill-~~

~~ing the prescription and the date filled shall be inscribed on the face of the prescription. (A rubber stamp or typewritten or printed name are accepted.~~]

B. In pharmacies without computerized prescription information, prescriptions for Schedules **II,** III, IV and V shall have the name of the dispensing pharmacist and the date filled inscribed on the face of the prescription. (Typewritten, printed or rubber stamp are acceptable.)

C. Prescriptions for Schedule III, IV and V shall be maintained either in a separate file only, or in such form that they are readily retrievable from other records of the pharmacy. "Readily retrievable" means that at the time of filing, the face of the prescription is stamped in red ink in the lower right hand corner with the letter "C" no less than 1" high**, or the records comply with 16.19.6.22 NMAC "Computerized Prescription Information"**.

D. Prescriptions so marked may then be filed with prescriptions for Schedule II substances, or in the usual consecutively numbered prescription file for non-controlled drugs.

E. Pharmacies employing automatic data processing systems or other electronic record keeping systems for prescriptions [~~which permits identification by prescription number and retrieval of original documents by prescriber's name, patient's name, drug dispensed, and date filled, need not mark the hard copy of the prescription with a red "C".~~] **must comply with 16.19.6.22 NMAC "Computerized Prescription Information".**

F. Hospital floor stock records. A record of controlled substances administered from floor stock shall contain the following information:

(1) name of patient;

(2) date and time administered;

(3) name of drug;

(4) strength of drug;

(5) amount administered;

(6) name of prescribing physician;

(7) name of person administering the controlled substance.

[16.19.20.31 NMAC - Rp, 16 NMAC 19.20.15(1), 07-15-02; A, 01-31-07]

16.19.20.67 SCHEDULE III: Shall Consist of Drugs and Other Substances, By Whatever Official Name, Common or Usual Name Designated Listed in This Section.

A. S T I M U L A N T S : Unless specifically exempt or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Those compounds, mixtures or preparations in dosage unit form containing any stimulant, amphetamine, phenmetrazine or methamphetamine previously exempt, for which the exemption was revoked by FDA Regulation Title 21, Part 308.13, and any other drug of the quantitative composition shown in that regulation for those drugs or which is the same except that it contains a lesser quantity of controlled substances.

(2) Benzphetamine

(3) Phendimetrazine

(4) Chlorphentermine

(5) Clortermine

B. D E P R E S S A N T S : Unless specifically exempt or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture or preparation containing:

(a) Amobarbital,

(b) Secobarbital,

(c) Pentobarbital,

(d) Butalbital; or any salt thereof and one or more active medicinal ingredients which are not listed in any schedule.

(2) Any suppository dosage form containing:

(a) Amobarbital,

(b) Secobarbital,

(c) Pentobarbital; or any salt of any of these drugs approved by the FDA for marketing only as a suppository.

(3) Any substance which contains any quantity of a derivative of barbituric acid or any salt of a derivative of barbituric acid.

(4) Chlorhexadol

(5) Lysergic Acid

(6) Lysergic Acid Amide

(7) Methyprylon

(8) Sulfondiethylmethane

(9) Sulfonethylmethane

(10) Sulfonmethane

(11) Tiletamine/zolazepam (Telazol)

(12) Ketamine Hydrochloride

(13) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section505 of the Federal Food, Drug and Cosmetic Act.

C. Nalorphine (a narcotic drug)

D. Buprenorphine

E. NARCOTIC DRUGS: Unless specifically exempt or unless listed in another schedule, any material, compound, mixture or preparation containing limited quantities of the following narcotic drugs, or any salts thereof:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage units, with one or more active nonnarcotic ingredients in recognized therapeutic amounts.

(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

F. A N A B O L I C STEROIDS: The term "anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth. Unless specifically exempt or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances listed in this section:

(1) boldenone

(2) chloro testosterone

(3) clostebol

(4) dehydrochlormethyltestosterone

(5) dihydrotestosterone

(6) drostanolone

(7) ethylestrenol

(8) fluoxymesterone

(9) formebolone

(10) mesterolone

(11) methandienone

(12) methandranone

(13) methandriol

(14) methandrostenolone

(15) methenolone
(16) methyltestosterone
(17) mibolerone
(18) nandrolone
(19) norethandrolone
(20) oxandrolone
(21) oxymesterone
(22) oxymetholone
(23) stanolone
(24) stanozolol
(25) testolactone
(26) testosterone
(27) trenbolone; and
(28) any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.

G. [~~The following anabolic steroid containing compounds, mixtures, or preparations have been exempted by the Board from 16.19.20.67.E NMAC, Schedule III:~~]

[~~TABLE OF EXEMPT ANABOLIC STEROID PRODUCTS~~]

~~Trade Name~~	~~Company~~	~~NDC No.~~	~~Form~~	~~Ingredients~~	~~Quantity~~
~~Androgyn L. A.~~	~~Forest Pharmaceuticals, St. Louis MO~~	~~0456-1005~~	~~Vial~~	~~Testosterone enanthate Estradiol valerate~~	~~90 mg/ml 4mg/ml~~
~~Andro-Estro 90-4~~	~~Rugby Laboratories, Rockville Centre, NY~~	~~0536-1605~~	~~Vial~~	~~Testosterone enanthate Estradiol valerate~~	~~90 mg/ml 4mg/ml~~
~~depANDROGYN~~	~~Forest Pharmaceuticals, St. Louis, MO~~	~~0456-1020~~	~~Vial~~	~~Testosterone cypionate Estradiol cypionate~~	~~50 mg/ml 2mg/ml~~
~~DEPO-T.E~~	~~Quality Research Pharm., Carmel,IN~~	~~52728-257~~	~~Vial~~	~~Testosterone cypionate Estradiol cypionate~~	~~50mg/ml 2mg/ml~~
~~DepTESTROGEN~~	~~Martica Pharmaceuticals, Phoenix, AZ~~	~~51698-257~~	~~Vial~~	~~Testosterone cypionate Estradiol cypionate~~	~~50mg/ml 2mg/ml~~
~~Dumone~~	~~Wintec Pharmaceutical Pacific, MO~~	~~52047-360~~	~~Vial~~	~~Testosterone enanthate Estradiol valerate~~	~~90mg/ml 4mg/ml~~
~~DURATESTRIN~~	~~W.E. Hauck Alpharetta, GA~~	~~43797-016~~	~~Vial~~	~~Testosterone cypionate Estradiol cypionate~~	~~50mg/ml 2mg/ml~~
~~DUP-SPAN II~~	~~Primedies Laboratories Gardena, CA~~	~~0684-0102~~	~~Vial~~	~~Testosterone cypionate Esterified cypionate~~	~~50mg/ml 2mg/ml~~
~~Estratest~~	~~Solvay Pharmaceuticals Marietta, GA~~	~~0032-1026~~	~~TB~~	~~Esterified estrogens Methyltestosterone~~	~~1.25mg 2.5mg~~
~~Estratest HS~~	~~Solvay Pharmaceuticals Marietta, GA~~	~~0032-1023~~	~~TB~~	~~Esterified estrogen Methyltestosterone~~	~~0.625 mg 1.25 mg~~
~~PAN ESTRA-TEST~~	~~Pan American Labs Covington, LA~~	~~0525-0175~~	~~Vial~~	~~Testosterone cypionate Estradiol cypionate~~	~~50mg/ml 2mg/ml~~

Premarin with Methyltestosterone	Ayerst Labs, Inc. New York, NY	0046-0879	TB	Conjugated estrogens Methltestosterone	1.25mg 10.0mg
Premarin with Methyltestosterone	Ayerst Labs, Inc. New York, NY	0046-878	TB	Conjugated estrogens Methltestosterone	0.625 mg 5.0 mg
Synovex H Pellets In process	Syntex Animal Health Palo Alto, CA	……	Drum	Testosterone Propionate Estradiol benzoate	25mg 2.5 mg
Synovex H Pellets in process granulation	Syntex Animal Health Palo Alto, CA	……	Drum	Testosterone Propionate Estradiol bensoate	10 parts 1 part
TEST-ESTRO Cypionate	Rugby Laboratories Rockville Center NY	0536-9470	Vial	Testosterone cypionate Estradiol cypionate	50mg/ml 2mg/ml
Testagen	Clint Pharmaceuticals Nashville, TN	55553-257	Vial	Testosterone cypionate Estradiol cypionate	50mg/ml 2mg/ml
Testosterone Cyp 50 Estradiol Cyp 2	I.D.E. Interstate Amityville, NY	0814-7737	Vial	Testosterone cypionate Estradiol cypionate	50mg/ml 2mg/ml
Testosterone Cypionate Estradiol Cypionate injection	Best Generics, No. Miami Beach, FL	54274-530	Vial	Testosterone cypionate Estradiol cypionate	50mg/ml 2mg/ml
Testosterone Cypionate Estradiol Cypionate injection	Goldline Labs Ft. Lauderdale, FL	0182-3069	Vial	Testosterone cypionate Estradiol cypionate	50mg/ml 2mg/ml
Testosterone Cypionate Estradiol Cypionate injection	Schein Pharmaceuticals Port Washington, NY	0364-6611	Vial	Testosterone cypionate Estradiol cypionate	50mg/ml 2mg/ml
Testosterone Cypionate Estradiol Cypionate injection	Steris Labs Inc. Phoenix, AZ	0402-0257	Vial	Testosterone cypionate Estradiol cypionate	50mg/ml 2mg/ml
Testosterone Enanthate Estradiol Valerate Injection	Goldline Labs Ft. Lauderdale, FL	0182-3073	Vial	Testosterone enanthate Estradiol valerate	90mg/ml 4mg/ml
Testosterone Enanthate Estradiol Valerate Injection	Schein Pharmaceuticals Port Washinfton, NY	0364-6618	Vial	Testosterone enanthate Estradiol valerate	90 mg/ml 4 mg/ml
Testosterone Enanthate Estradiol Valerate Injection	Steris Labs, Inc. Phoenix, AZ	0402-0360	Vial	Testosterone enanthate Estradiol valerate	90 mg/ml 4 mg/ml
Testosterone Cypionate Estradiol Cypionate Injection	The Upjohn Co. Kalamazoo, MI	0009-0253	Vial	Testosterone Cypionate Estradiol cypionate	50 mg/ml 2 mg/ml]

Exempt Anabolic Steroids: Compounds, mixtures, or preparations that contain an anabolic steroid that have been exempted by the board from Subsection E of 16.19.20.67 NMAC, schedule III to the same extent that the substance has been exempted from the application of the Federal Controlled Substance Act, if the substance is listed as an exempt anabolic steroid product under 21 C.F.R. Section 1308.34 and its subsequent amendments.
[16.19.20.67 NMAC - Rp, 16 NMAC 19.20.28(2), 07-15-02; A, 02-15-03; A, 06-30-05; A, 01-31-07]

16.19.20.69 SCHEDULE V:

A. Narcotic drugs containing non-narcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone.

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(6) Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

B. Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers.

(1) Pyrovalerone.

(2) Pseudoephedrine as a drug that includes any compound, mixture, or preparation that contains any detectable quantity of pseudoephedrine, its salts or its optical isomers, or salts of its optical isomers. Pursuant to 30-31-10.C the following substances are excluded from Schedule V controlled substances: pseudoephedrine products in liquid form including liquid filled gel caps **and pseudoephedrine products already classified as dangerous drugs.**
[16.19.20.69 NMAC - Rp, 16 NMAC 19.20.28(4), 07-15-02; A, 06-30-05; A, 06-30-06; A, 01-31-07]

NEW MEXICO BOARD OF PHARMACY

This is an amendment to 16.19.21 NMAC, Sections 8, 10, 23, and 35, effective 1-31-07.

16.19.21.8 P E R S O N S REQUIRED TO REGISTER:

A. The board shall license an applicant to manufacture, possess, transfer or transport drug precursors unless it determines that the issuance of that license would be inconsistent with the public interest. In determining the public interest, the board may consider the following factors:

(1) maintenance of effective controls against diversion of drug precursors into other than legitimate medical, scientific or industrial channels;

(2) compliance with applicable state and local law;

(3) any conviction of the applicant under federal or state laws relating to any controlled substance or drug precursor;

(4) past experience in the manufacturer, possession, transfer or transportation of drug precursors and the existence in the applicant's establishment of effective controls against diversion;

(5) furnishing by the applicant of false or fraudulent material in any application filed under the Drug Precursor Act or the Controlled Substances Act;

(6) suspension or revocation of the applicant's federal registration to manufacture, distribute or dispense controlled substances or drug precursors as authorized by federal law; and

(7) any other factors relevant to and consistent with the public health and safety.

B. Licensing under this section does not entitle a licensee to manufacture, possess, transfer or transport drug precursors other than those allowed in the license.

[~~C. Entities currently licensed by the board shall be exempt from this registration, but not exempt from the regulation.~~]
[03-07-80...08-27-90; 16.19.21.8 NMAC - Rn, 16 NMAC 19.21.8, 03-30-02; A, 01-15-2005; A, 01-31-07]

16.19.21.10 R E G I S T R A T I O N FEE: The registration fee or annual renewal fee required by the Drug Precursor Act shall be[~~:~~] **$250.00 per year for a wholesaler, manufacturer, or distributor.**

[~~A. for a wholesaler, manufacturer, or distributor shall be $250.00 per year;~~]

[~~B. for a retail distributor with fewer than 10 employees shall be $25.00 per year;~~]

[~~C. for a retail distributor with 10 or more employees shall be $50.00 per year.~~]
[03-07-80...08-27-90; 16.19.21.10 NMAC - Rn, 16 NMAC 19.21.10, 03-30-02; A, 01-15-2005;
A, 01-31-07]

16.19.21.23 D I S T R I B U T I O N RECORDS: [~~A.~~] All wholesaler, manufacturer, or distributor registrants shall include the following in distribution records for drug precursors under this part:

[~~(1)~~] **A.** purchaser's name, address and telephone number, and drug precursor registration number or other license number issued by the board in lieu of a drug precursor registration number;

[~~(2)~~] **B.** quantity purchased;

[~~(3)~~] **C.** date supplied;

[~~(4)~~] **D.** suppliers name, address, telephone number, and drug precursor registration number or other license number issued by the board in lieu of a drug precursor registration number;

[~~(5)~~] **E.** distribution records must be retained for three (3) years.

[~~B. All retail distributor registrants, pharmacies, hospitals and clinics shall adhere to the following record keeping and distribution requirements concerning pseudoephedrine or pseudoephedrine containing products regulated by the board:~~]

[~~(1) that a retail distributor registrant, pharmacies, hospitals and clinics shall transfer (sell) no more than 2 blister packages not to exceed 6 grams of pseudoephedrine to any one individual in a single transaction and may not knowingly or intentionally transfer cumulative total exceeding 2 blister packages or 6 grams of pseudoephedrine during any seven day period to that one individual;~~]

[~~(2) that a retail distributor registrant, pharmacies, hospitals and clinics must place all products regulated by the board in direct sight of an employee of the facility and no more than 20 feet from a checkout or in a locked case accessible only by employee or by adhering to the following alternative security measures:~~]

[~~(a) all packages of any drug having a single active ingredient of pseudoephedrine or any of its salts, optical isomers, or salts of optical isomers, shall be displayed behind a store counter , in an area not accessibleto customers, or shall display those products in a locked case so that cus-~~

~~tomers wanting access to the product must receive seller assistance;~~]

[~~(b) except as provided in subparagraph (a) all packages of any drug having pseudoephedrine as an active ingredient of or any of its salts, optical isomers, or salts of optical isomers, can be displayed so that customers wanting access to the product can do so under the following circumstances:~~]

[~~(i) a reliable anti-theft device that uses special package tags and detection alarms designed to prevent theft of product from the place of business is employed; at a minimum, one (1) of every four (4) packages must be tagged in this manner;~~]

[~~(ii) packages are kept under constant video surveillance in a manner that satisfies the following conditions; a video camera must be positioned so that the area where the products are displayed are visible; any recording must have the capability to allow video image playback in real time format; these images must be preserved for a minimum of twenty-one (21) days; these images must be available to law enforcement authorities within 72 hours upon request; and a sign must be posted in a prominent manner stating the following, "For your protection, New Mexico Board of Pharmacy Regulations require that certain products containing pseudoephedrine be displayed in an area under constant video surveillance"; lettering on the sign must measure at least 1 inch in height;~~]

[~~(c) nothing in this section shall prevent board staff from requiring additional security requirements, as prescribed in subparagraph (a), of any pseudoephedrine preparation product that is found in an illegal laboratory; the board shall give the retail distributor registrants, pharmacies, hospitals and clinics adequate notice of such a requirement and twenty-one (21) days from the time of notification to comply with change.~~]

[~~(3) that a retail distributor registrant, pharmacies, hospitals and clinics owner or manager must develop a written or electronic training program, to be read and signed (written or electronic) by all employees involved in the sale of regulated products that makes the employee aware of all statutes and regulations concerning the sale of regulated products;~~]

[~~(4) that a retail distributor registrant, pharmacies, hospitals and clinics will retain all invoices of purchases of regulated products in a readily retrievable manner for a period of three (3) years;~~]

[~~(5) that a retail distributor registrant, pharmacies, hospitals and clinics will purchase regulated products only from wholesalers, manufacturers, or distributors registered to distribute drug precursors or otherwise licensed with the board.~~]

[03-07-80...08-27-90; 16.19.21.23 NMAC - Rn, 16 NMAC 19.21.23, 03-30-02; A, 01-15-2005; A, 09-30-2005; A, 01-31-07]

16.19.21.35 CONTROLLED SUBSTANCE PRECURSORS: The following substances are designated as immediate precursors used in the manufacture of controlled substances:

A. phenyl acetone;

B. ephedrine;

C. phenyl-2-propanone;

D. norephedrine;

E. ethyl-1-methyl butyl diethyl malonate;

F. allyl-1-methyl butyl diethyl malonate;

G. hydroxyindole;

H. 3,4,5-trimethoxybenzyl cyanide;

I. 3,4,5-trimethoxybenzyl alcohol;

J. 3,4,5-trimethoxyphenylacetonitraile;

K. 3,4,5-trimethoxybenzoic acid amide;

L. 4-benzyloxyindole;

M. 4-chloro indole;

N. indole;

O. tryntophol;

P. 3-indole glyoxylic acid;

Q. 3-indole glyoxylic acid ethyl ester;

R. lysergic acid;

S. lysergic acid amide;

T. ergotamine tartrate;

U. 1-phenyl cyclohexylamine;

V. 1-piperidinocyclohexanecarbonitrile;

W. pseudoephedrine [~~single ingredient solid oral dosage form and any combination solid oral dosage form containing pseudoephedrine excluding liquid products including liquid gel products for oral administration, inhalation, injection, any product intended for pediatric use, and any solid oral dosage form for which the manufacturer of said product presents scientific evidence to the board verifying that the product cannot be converted into a controlled substance;~~] **as a substance in a form not approved in 26-1-14 NMSA;**

X. methylamine;

Y. methylformamide

Z. phenylacetic acid;

AA. anhydrous ammonia:

(1) a person shall not possess any amount of anhydrous ammonia;

(2) a person must store anhydrous ammonia in a container approved for the transport of anhydrous ammonia;

(3) the provisions of this section do not apply to a:

[~~(i)~~] **(a)** person who is actively operating land used for agricultural purposes;

[~~(ii)~~] **(b)** retail distributor;

[~~(iii)~~] **(c)** wholesaler;

[~~(iv)~~] **(d)** manufacturer;

[~~(v)~~] **(e)** warehouseman;

[~~(vi)~~] **(f)** common carrier; or

[~~(vii)~~] **(g)** person engaged in the regular course of conducting a lawful business;

BB. red phosphorous;

CC. iodine matrix, a retail distributor registrant, pharmacy, hospital, clinic may not sell more than 2 ounces of iodine matrix in a single transaction;

DD. crystal iodine, a retail distributor registrant, pharmacy, hospital, clinic may not sell more than 2 ounces of iodine crystals in a single transaction.

[03-07-80…08-27-90; 16.19.21.35 NMAC - Rn, 16 NMAC 19.21.35, 03-30-02; A, 12-01-03; A, 01-15-2005; A, 01-31-07]

NEW MEXICO BOARD OF PHARMACY

This is an amendment to 16.19.26 NMAC Section 9, effective 1-31-07.

16.19.26.9 VACCINES:

A. PROTOCOL:

(1) Prescriptive authority for vaccines shall be exercised solely in accordance with the written protocol for vaccine prescriptive authority approved by the board.

(2) Any pharmacist exercising prescriptive authority for vaccines must maintain a current copy of the protocol for vaccine prescriptive authority approved by the board.

B. EDUCATION AND TRAINING:

(1) The pharmacist must successfully complete a course of training, accredited by the accreditation council for pharmacy education (ACPE), provided by: a) the centers for disease control and prevention (CDC); or b) a similar health authority or professional body approved by the board.

(2) Training must include study materials, hands-on training and techniques for administering vaccines, comply with current CDC guidelines, and provide instruction and experiential training in the following content areas:

(a) mechanisms of action for vaccines, contraindication, drug interaction, and monitoring after vaccine administration;

(b) standards for pediatric, adolescent, and adult immunization practices;

(c) basic immunology and vaccine protection;

(d) vaccine-preventable diseases;

(e) recommended pediatric, adolescent, and adult immunization schedule;

(f) vaccine storage management;

(g) biohazard waste disposal and

sterile techniques;

(h) informed consent;

(i) physiology and techniques for vaccine administration;

(j) pre and post-vaccine assessment and counseling;

(k) immunization record management;

(l) management of adverse events, including identification, appropriate response, documentation and reporting;

(m) reimbursement procedures and vaccine coverage by federal, state and local entities.

(3) Continuing education: Any pharmacist exercising prescriptive authority for vaccines shall complete a minimum of 0.2 CEU of live ACPE approved vaccine related continuing education every two years. Such continuing education shall be in addition to requirements in 16.19.4.10 NMAC.

C. AUTHORIZED DRUGS:

(1) Prescriptive authority shall be limited to those drugs and vaccines delineated in the written protocol for vaccine prescriptive authority approved by the board, and;

(2) Other vaccines as determined by the CDC, **the advisory committee on immunization practices (ACIP)** or New Mexico department of health that may be required to protect the public health and safety [~~in an established emergency~~].

D. RECORDS:

(1) The prescribing pharmacist must generate a written or electronic prescription for any dangerous drug authorized.

(2) Informed consent must be documented in accordance with the written protocol for vaccine prescriptive authority approved by the board and a record of such consent maintained in the pharmacy for a period of at least three years.

E. NOTIFICATION:

[~~(1) Upon signed consent of the patient or guardian, the pharmacist shall notify the New Mexico department of health immunization program of any vaccine administered.~~]

[~~(2) Upon signed consent of the patient or guardian, the pharmacist shall notify the patient's designated physician or primary care provider within 15 days of any vaccine prescribed.~~] **Upon signed consent of the patient or guardian the pharmacist shall:**

(1) notify the New Mexico department of health immunization program and the patient's designated physician or primary care provider or;

(2) update the New Mexico department of health immunization program's electronic database (NMSIIS) of any vaccine administered.

[16.19.26.9 NMAC - N, 12-15-02; 16.19.26.9 NMAC - Rn, 16.19.26.8 NMAC & A, 07-15-04; A, 01-31-07]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 30 EDUCATIONAL STANDARDS - GENERAL REQUIREMENTS
PART 8 DISTANCE LEARNING

6.30.8.1 ISSUING AGENCY: Public Education Department
[6.30.8.1 NMAC - N, 1-16-07]

6.30.8.2 SCOPE: All public schools, including charter schools. This rule does not apply to the use of technologies or methods used in distance learning programs when such technology or methods are used within a regular classroom setting solely to supplement or aid the classroom instruction.
[6.30.8.2 NMAC - N, 1-16-07]

6.30.8.3 STATUTORY AUTHORITY: Sections 22-2-1, 22-2-2, and 22-13-27 NMSA 1978.
[6.30.8.3 NMAC - N, 1-16-07]

6.30.8.4 DURATION: Permanent
[6.30.8.4 NMAC - N, 1-16-07]

6.30.8.5 EFFECTIVE DATE: January 16, 2007, unless a later date is cited at the end of a section.
[6.30.8.5 NMAC - N, 1-16-07]

6.30.8.6 OBJECTIVE: This rule establishes requirements for distance learning programs taken for credit or a grade by students enrolled in a school district or charter school.
[6.30.8.6 NMAC - N, 1-16-07]

6.30.8.7 DEFINITIONS:

A. "Asynchronous instruction" means the instructor and student are not interacting in real time and can, but need not, utilize the internet.

B. "Board" means the governing body of a school district or charter school.

C. "Department" means the public education department.

D. "Distance learning" means the technology and educational process used to provide instruction for credit when the student and primary instructor are not necessarily physically present at the same time and/or place.

E. "Distance learning authorizer" means any public school, school district or charter school providing access to distance learning classes for credit.

F. "Distance learning irregularities" means any circumstance within or beyond the control of a distance learning authorizer that in the opinion of the department or a distance learning authorizer raises doubts about the propriety of procedures followed, preparation or validity of materials, testing administration, testing security, online security, or teacher or student conduct.

G. "District coordinator" means a staff person at the school district level who shall administer and monitor the online program for the school district.

H. "Enrolling district" means the school district or charter school in which a student is enrolled for the purposes of compulsory attendance.

I. "MEM" means membership.

J. "Membership" means the total number of qualified students as defined in NMSA 1978, Section 22-8-2.

K. "Online" or "web based" means utilizing the internet.

L. "Primary enrolling district" means the school district or charter school in which the student is registered; students shall only have one primary enrolling district for purposes of membership.

M. "Public school" means that part of a school district that is a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either an elementary, middle, junior high or high school or any combination of those and includes a charter school.

N. "Qualified distance learning student" means a qualified student as defined in NMSA 1978, Section 22-8-2 who is also enrolled in distance learning courses for credit or a grade.

O. "Real time" interaction means live instruction that occurs between instructor and students, although the individuals need not be physically present in the same location at the same time.

P. "Site coordinator" means a licensed counselor or teacher, at a public school, including but not limited to a charter school, who shall monitor the progress of students participating in the online program at that school. Site coordinator duties shall not be performed by an educational assistant or substitute teacher, although they may assist.

Q. "Student" is a qualified

student as defined in NMSA 1978, Section 22-8-2.

R. "Syllabi" are the distance learning provider's official course descriptions.

S. "Synchronous instruction" means the instructor and students receiving distance learning interact in real time. Synchronous instruction includes:

(1) web based instruction that requires real time interaction between instructor and student;

(2) two way interactive video;

(3) regular classroom instruction; and

(4) telephone based instruction.

[6.30.8.7 NMAC - N, 1-16-07]

6.30.8.8 GENERAL PARAMETERS:

A. Distance learning provides an opportunity for public schools within the state to expand their course offerings and expand access to instructional resources. These technologies shall not be used as a substitute for all direct, face-to-face student and teacher interactions, but as a means for local school districts and charter schools to expand the learning resources available to their students.

B. Distance learning authorizers shall provide onsite access to the necessary technology for participation in all distance learning classes or programs.

C. Distance learning authorizers shall provide accompanying electronic formats that are usable by a person with a disability using assistive technology, and those formats shall be based on the American standard code for information interchange, hypertext markup language and extensible markup language.

D. All local school boards offering distance learning shall, prior to the offering of distance learning, adopt written polices regarding distance learning which shall include the following parameters.

(1) The local school board shall be the sole entity granting student credit for completion of distance learning courses.

(2) Each district shall identify a district coordinator and each school providing distance learning classes or programs shall identify a site coordinator, who shall monitor students' work, except that if a distance learning program is provided by a charter school, the site coordinator can be designated to have responsibility for monitoring the distance learning program in that charter school.

(3) The site coordinator of the school shall approve or disapprove students' requests to participate in any distance leaning courses or programs for credit or a grade pursuant to criteria established by local school board policy.

(4) Students shall not be precluded from taking distance learning classes outside of the normal school day. Students must be able to maintain a course schedule which incorporates both distance learning classes and locally scheduled classes without conflict.

(5) Districts and charter schools shall establish written policies and procedures for monitoring student progress and graded assignments, which shall include requirements that students be physically present at the school in which they are enrolled at regularly scheduled intervals, as established by the site coordinator and student or parent, and demonstrate mastery of the subjects being learned at that time. The same grading policies applied to locally scheduled classes shall apply to distance learning classes.

(6) All federal and state statutes pertaining to student privacy, the posting of images on the internet, copyright or duplication of materials, and rules pertaining to the public broadcasting of audio and video technology shall be addressed by local board policy.

(7) The security of individual student data and records shall be addressed by school board policy. At a minimum, student record safeguards under the Family Educational Right to Privacy Act [20 U.S. Code 1232g] shall be followed.

[6.30.8.8 NMAC - N, 1-16-07]

6.30.8.9 ENROLLMENT AND MONITORING:

A. Only students who are regularly enrolled in a school district or charter school shall be allowed to enroll in distance learning courses for credit.

B. Students must have a primary enrolling district. Should a student enroll in a distance learning course offered by a district or charter school other than the student's enrolling district, the student can only be counted once as a qualified student for state equalization guarantee funding purposes as defined in Section 22-8-2 of the New Mexico Statutes Annotated for determining membership in the student's enrolling district. Any reimbursement for cross-district enrollment for distance learning courses shall be arranged between the districts or charter schools through signed written documents.

C. Qualified distance learning students enrolled in asynchronous distance learning courses must log onto their computers a minimum of four times per week and certify that they are the enrolled student each time they log on to their computers. Students enrolled in synchronous distance learning courses shall log on to their computer at the scheduled class time and certify that they are the enrolled student.

D. Each qualified distance learning student participating in a distance learning course or program shall be evaluated, tested and monitored at the same intervals as other students in the grade level in the student's school, and shall be subject to the statewide assessments as required in the Assessment and Accountability Act. No student shall be allowed to participate in the statewide assessments at a place other than a public school site.

E. A qualified distance learning student may enroll in and receive credit or a grade for a distance learning class or program that is at a different grade level than the student's current grade level. However, a student cannot take the same course twice for credit.

[6.30.8.9 NMAC - N, 1-16-07]

6.30.8.10 COURSE REQUIREMENTS:

A. Districts and charter schools shall ensure that all courses taught by New Mexico school personnel are taught by an appropriately licensed and endorsed primary instructor, and that all courses taught by an out of state or university instructor are affiliated with an accredited provider.

B. Districts and charter schools shall establish written criteria and an approval process adopted in written board policy for determining the appropriateness of particular distance learning courses for each individual students prior to student enrollment in such courses. All core curriculum delivered by distance learning must meet or exceed the New Mexico content standards and benchmarks. Districts shall collect and keep on file, in either an electronic or paper format, course syllabi for all distance learning courses which shall be available for inspection by the public.

C. A qualified distance learning student must receive a grade or academic credit for taking a distance learning course or program unless not offered for credit.

[6.30.8.10 NMAC - N, 1-16-07]

6.30.8.11 DISTANCE LEARNING IRREGULARITIES:

A. Each local school board and charter school shall adopt a written policy addressing prompt removal or non-use of a distance learning provider should irregularities or deficiencies in the provider's services become apparent.

B. Should a distance learning authorizer fail to comply with this rule, the department shall disapprove membership based on students' enrollment in the distance learning courses or programs.

C. Should a student fail to comply with this rule or the distance learning authorizer's policies, in addition to any other disciplinary actions, the student may

be denied credit for the distance learning course or program in which the student was enrolled.
[6.30.8.11 NMAC - N, 1-16-07]

History of 6.30.8 NMAC: [Reserved]

End of Adopted Rules Section

This page intentionally left blank.

Other Material Related to Administrative Law

NEW MEXICO BOARD OF EXAMINERS FOR ARCHITECTS

New Mexico Board of Examiners for Architects

PO Box 509
Santa Fe, NM
505-982-2869

Regular Meeting

The New Mexico Board of Examiners for Architects will hold a regular open meeting of the Board in Santa Fe, New Mexico on Friday, February 2, 2007. The meeting will be held in the Conference Room of the Board office, #5 Calle Medico, Ste. C in Santa Fe beginning at 9:00 a.m. Disciplinary matters may also be discussed.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the meeting, please contact the Board Office at 982-2869 at least one week prior to the meeting. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact the Board Office if a summary or other type of accessible format is needed.

End of Other Related Material Section

SUBMITTAL DEADLINES AND PUBLICATION DATES

2007

Volume XVIII	Submittal Deadline	Publication Date
Issue Number 1	January 2	January 16
Issue Number 2	January 17	January 31
Issue Number 3	February 1	February 14
Issue Number 4	February 15	February 28
Issue Number 5	March 1	March 15
Issue Number 6	March 16	March 30
Issue Number 7	April 2	April 16
Issue Number 8	April 17	April 30
Issue Number 9	May 1	May 15
Issue Number 10	May 16	May 31
Issue Number 11	June 1	June 14
Issue Number 12	June 15	June 29
Issue Number 13	July 2	July 16
Issue Number 14	July 17	July 31
Issue Number 15	August 1	August 15
Issue Number 16	August 16	August 30
Issue Number 17	August 31	September 14
Issue Number 18	September 17	September 28
Issue Number 19	October 1	October 15
Issue Number 20	October 16	October 31
Issue Number 21	November 1	November 15
Issue Number 22	November 16	November 30
Issue Number 23	December 3	December 14
Issue Number 24	December 17	December 31

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rule making, proposed rules, adopted rules, emergency rules, and other similar material. The Commission of Public Records, Administrative Law Division publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978. For further subscription information, call 505-476-7907.