

NEW MEXICO 
Commission of Public Records
at the State Records Center and Archives
Your Access to Public Information

New Mexico Register

The official publication for all official notices of rulemaking
and filing of proposed, adopted and emergency rules.

Volume XXXV - Issue 10 - May 21, 2024

COPYRIGHT © 2024
BY
THE STATE OF NEW MEXICO

ALL RIGHTS RESERVED

The New Mexico Register

Published by the Commission of Public Records,
Administrative Law Division

1205 Camino Carlos Rey, Santa Fe, NM 87507

The *New Mexico Register* is published twice each month by the Commission of Public Records, Administrative Law Division. The cost of an annual subscription is \$270.00. Individual copies of any Register issue may be purchased for \$12.00. Subscription inquiries should be directed to: The Commission of Public Records, Administrative Law Division, 1205 Camino Carlos

Rey, Santa Fe, NM 87507.

Telephone: (505) 476-7941; Fax: (505) 476-7910; E-mail: staterules@state.nm.us.

The *New Mexico Register* is available free at <http://www.srca.nm.gov/new-mexico-register/>

New Mexico Register

Volume XXXV, Issue 10

May 21, 2024

Table of Contents

Notices of Rulemaking and Proposed Rules

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

ENERGY CONSERVATION AND MANAGEMENT DIVISION

Notice of Termination of Public Hearing.....	640
Notice of Public Hearing and Rulemaking.....	640

NEW MEXICO FINANCE AUTHORITY

Notice of Proposed Rulemaking and Public Hearings.....	641
--	-----

REGULATION AND LICENSING DEPARTMENT

SPEECH-LANGUAGE PATHOLOGY AND HEARING AID DISPENSING PRACTICES BOARD

Notice of Public Rule Hearing and Board Meeting.....	646
--	-----

TAXATION AND REVENUE, DEPARTMENT OF

Notice of Proposed Rulemaking.....	647
------------------------------------	-----

Adopted Rules

A = Amended, E = Emergency, N = New, R = Repealed, Rn = Renumbered

GAMING CONTROL BOARD

15.1.5 NMAC	A	Application for Licensure Under the Gaming Control Act.....	650
15.1.10 NMAC	A	Conduct of Gaming Activity Under the Gaming Control Act.....	651

NURSING, BOARD OF

16.12.9 NMAC	R	Management of Chronic Pain With Controlled Substances.....	653
16.12.9 NMAC	N	Management of Chronic Pain With Controlled Substances.....	653
16.12.14 NMAC	N	Nursing Practice in Aesthetic Healthcare Facilities.....	657
16.12.1 NMAC	A	General Provisions.....	660
16.12.2 NMAC	A	Nurse Licensure.....	667
16.12.3 NMAC	A	Nursing Educational Programs.....	687
16.12.4 NMAC	A	Hemodialysis Technicians.....	693

PUBLIC SAFETY, DEPARTMENT OF

10.2.4 NMAC	A/E	Law Enforcement Retention Fund Reporting, Monitoring and Administration.....	698
-------------	-----	--	-----

This Page Intentionally Left Blank

Notices of Rulemaking and Proposed Rules

**ENERGY, MINERALS
AND NATURAL
RESOURCES
DEPARTMENT
ENERGY CONSERVATION
AND MANAGEMENT
DIVISION**

**NOTICE OF TERMINATION OF
PUBLIC HEARING**

The New Mexico Energy, Minerals and Natural Resources Department, Energy Conservation and Management Division is providing notice to vacate the public rule hearing noticed in Issue 7 of the New Mexico Register published April 9, 2024, scheduled for Thursday, May 9, 2024, at 9:30 a.m., in accordance with Subsection C of Section 14-4-5 NMSA 1978. The proposed repeal and replace for 3.3.14 NMAC New Solar Market Development Income Tax Credit will be heard at a hearing to be rescheduled at a later date.

**ENERGY, MINERALS
AND NATURAL
RESOURCES
DEPARTMENT
ENERGY CONSERVATION
AND MANAGEMENT
DIVISION**

**NOTICE OF PUBLIC HEARING
AND RULEMAKING**

The State of New Mexico, Energy, Minerals and Natural Resources Department (EMNRD) hereby gives notice of the following proposed rulemaking. EMNRD proposes to repeal 3.3.14 NMAC, New Solar Market Development Income Tax Credit, filed 8/25/2020, and replace it with a new rule, 3.3.14 NMAC, New Solar Market Development Income Tax Credit.

Purpose of Rules. In 2024, the Legislature passed the amendments to the New Solar Market Development Tax Credit, which is established in the Income Tax Act. The amendments to

the act require EMNRD to repeal the rule and develop a new rule that is compliant with the amendments in the legislation.

3.3.14 NMAC, New Solar Market Development Tax Credit, increases the annual aggregate amounts of the state tax credit available to applicants owning certified solar energy systems from \$12,000,000 to \$30,000,000 per calendar year. In addition, a single appropriation of \$20,000,000 is provided to applicants in calendar years 2020 through 2023 who, while otherwise eligible, did not receive a certificate for a tax credit because the cap had been exceeded in the applicable year. EMNRD also proposes amendments to the application requirements meant to simplify and streamline the process for both applicants and EMNRD.

Legal Authority. EMNRD proposes the rules under the authority of the Income Tax Act, NMSA 1978, Section 7-2-18.31.

The full text of the proposed rules is available from the EMNRD, Energy Conservation and Management Division, 1220 S. Saint Francis Drive, Santa Fe, NM 87505; at <https://www.emnrd.nm.gov/ecmd/ecmd-public-notices/> or by contacting Claudette Montoya at ClaudetteR.Montoya1@emnrd.nm.gov telephone (505) 372-8743.

Public Hearing and Comment. EMNRD will hold an in person and virtual public hearing on the proposed rules at 9:30 am on July 02, 2024. The public can attend in person in the EMNRD Wendell Chino Building, Pecos Hall on 1220 South St. Francis Drive, Santa Fe, NM 87505. The public may also join the hearing virtually through Microsoft Teams using one of the following:

New Solar Market Development Tax Credit Rule, 2024 Rule Hearing Event. https://teams.microsoft.com/l/meetup-join/19%3ameeting_YzBjNWZjMTAtZTljMS00NmU3LWI4M

[TAtNzg5OGNmMDVhYWl5%40th read.v2/0?context=%7b%22Tid%22%3a%2204aa6bf4-d436-426f-bfa4-04b7a70e60ff%22%2c%22Oid%22%3a%227a2869ad-e8e9-4114-99d7-c4dafba0a50c%22%7d](https://read.v2/0?context=%7b%22Tid%22%3a%2204aa6bf4-d436-426f-bfa4-04b7a70e60ff%22%2c%22Oid%22%3a%227a2869ad-e8e9-4114-99d7-c4dafba0a50c%22%7d): Select link to join the meeting.

Meeting ID: 232 551 013 743

Passcode: vppRub
Dial-in by telephone

+1 505-312-4308 United States, Albuquerque
Phone conference ID: 266 478 269#

Comments made online or in person will be accepted.

Those wishing to comment on the proposed rules may make oral comments or submit written comments at the hearing, or may submit written comments by July 02, 2024, by 12:00 p.m. by mail or e-mail. Please mail written comments to Claudette Montoya, EMNRD, Energy Conservation and Management Division, 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505 or submit them by e-mail to ClaudetteR.Montoya1@emnrd.nm.gov.

If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Claudette Montoya at telephone (505) 372-8743 or the New Mexico Relay Network at 1-800-659-1779 at least two weeks prior to the hearing. Public documents can be provided in various accessible formats. Please contact Claudette Montoya by telephone at (505) 372-8743, if a summary or other type of accessible format is needed.

Technical Information. There is no technical information for the proposed rule amendments.

**NEW MEXICO FINANCE
AUTHORITY**

**NOTICE OF PROPOSED
RULEMAKING AND PUBLIC
HEARINGS**

The New Mexico Opportunity Enterprise and Housing Development Review Board (Board) will hold a public hearing on Thursday, June 20, 2024, from 10:00 – 11:00 a.m., and on Friday, June 21, 2024, from 10:00–11:00 a.m. The hearing will be conducted virtually via Zoom; the public may attend the hearing using the following methods:

Thursday, June 20, 2024, 10:00-11:00 a.m. Mountain Time

Zoom Meeting Link:

<https://nmfa-net.zoom.us/j/88923074770?pwd=iWBvqLCmEQd6qJsF8DMXVsHsonrn2F.1>

Meeting ID: 889 2307 4770

Passcode: 692798

To join the meeting by phone, dial:
+13462487799,,88923074770#,,,,*692798# US - or - +16694449171,,88923074770#,,,,*692798# US

Find your local number: <https://nmfa-net.zoom.us/j/88923074770?pwd=iWBvqLCmEQd6qJsF8DMXVsHsonrn2F.1>

Friday, June 21, 2024 10:00-11:00 a.m. Mountain Time

Zoom Meeting Link:

<https://nmfa-net.zoom.us/j/82139120505?pwd=tvPk5wADZ4fbTakjF9XVgiAyHjk7Q9.1>

Meeting ID: 821 3912 0505

Passcode: 824077

To join the meeting by phone, dial:
+16694449171,,82139120505#,,,,*824077# US - or -
+17193594580,,82139120505#,,,,*824077# US

Find your local number: <https://nmfa-net.zoom.us/j/82139120505?pwd=tvPk5wADZ4fbTakjF9XVgiAyHjk7Q9.1>

The purpose of the rule hearing is to obtain input and public comment on proposed rule amendments relating to opportunity enterprise and housing development assistance consistent with changes made to the Opportunity Enterprise and Housing Development Act, Laws 2024, Ch. 8 (House Bill 195 Approved February 28, 2024).

Copies of the proposed rule may be accessed online at <https://www.nmfinance.com/opportunity-enterprise-review-board> or contact Board staff at OGC@nmfa.net, (505) 984-1454 , or toll free 1-800-ASK-NMFA (1-877-275-6632).

The Board will accept written public comments on the proposed rule beginning May 21, 2024. Please submit written comments on the proposed rule to the NMFA, attention Daniel C. Opperman, Chief Legal Officer, via electronic mail at OGC@nmfa.net, or by regular mail at 207 Shelby Street, Santa Fe, NM 87501. Written comments must be received no later than 5 p.m. on June 21, 2024. Comments received prior to the rule hearing will be posted to the Board website at <https://www.nmfinance.com/opportunity-enterprise-review-board>. Persons will also be given the opportunity to present their comments at the rule hearing.

Individuals who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact the Board Staff as soon as possible at OGC@nmfa.net, (505) 984-1454 , or toll free 1-800-ASK-NMFA (1-877-275-6632). The Board requests advance notice to provide required special accommodations at least one week prior to the meeting or as soon as possible.

Statutory Authority: Legal authority for this rulemaking may be found in the Opportunity Enterprise and Housing Development Act, Section 6-34-7 NMSA 1978 and Laws 2024, Ch. 8. Pursuant to NMSA 1978, 6-34-3, 6-34-5, and Laws 2024, Ch 8, Section , the New Mexico Finance Authority is responsible for adopting rules relating to the use of the opportunity enterprise revolving fund and the housing development revolving fund necessary to carry out the provisions of the Opportunity Enterprise and Housing Development Act and shall provide necessary administrative services to the board.

Proposed Amendment:

This is an amendment to 2.93.1 NMAC, Sections 1, 2, 6, 7, 9, 14, re-numbering Section 13 to Section 20, and adding new Sections 15 through 19, effective 7/30/2024.

2.93.1.1 ISSUING

AGENCY: New Mexico Opportunity Enterprise and Housing Development Review Board.

[2.93.1.1 NMAC – N, 4/25/2023; A, 7/30/2024]

2.93.1.2 SCOPE: All

persons or entities applying for enterprise assistance under the opportunity enterprise revolving fund and housing development assistance under the housing development revolving fund administered by the New Mexico finance authority, Sections 6-34-8, ~~and~~ 6-34-12, and 6-34-xx NMSA 1978.

[2.93.1.2 NMAC – N, 4/25/2023; A, 7/30/2024]

2.93.1.6 OBJECTIVE:

A. Section 6-34-3, NMSA 1978, provides that the authority may adopt separate rules to administer the opportunity enterprise revolving fund and the housing development revolving fund to originate enterprise assistance and housing development assistance for ~~[opportunity enterprise]~~ projects recommended by the board, govern the process through which applicants may apply for enterprise assistance ~~[from the opportunity enterprise revolving fund]~~ and housing development assistance, and collect fees and costs related to providing ~~[enterprise]~~ financing ~~[to each opportunity enterprise financing partner]~~.

B. Section 6-34-5, NMSA 1978 provides that the authority shall provide staff support for necessary administrative services of the board.

C. Section 6-34-6, NMSA 1978 provides that the authority shall upon the recommendation of the board, process, review and evaluate

applications for enterprise assistance and housing development assistance received from applicants.

D. Section 6-34-7, NMSA 1978 provides that the opportunity enterprise and housing development review board is required to adopt rules necessary to carry out the provisions of the act and allowing the authority to establish procedures for applying and qualifying for enterprise assistance and housing development assistance, establishing economic development goals for the state in consultation with the department, governing the application procedures and requirements for enterprise assistance and housing development assistance, determining how to select and prioritize applications for enterprise assistance and housing development assistance to [by] be funded by the authority, prioritizing projects that are in political subdivisions that are implementing zoning reforms projects, and providing safeguards to protect public money and other public resources.

E. Section 6-34-12, NMSA 1978 provides that the authority shall administer the opportunity enterprise revolving fund and the housing development revolving fund and recover from the [opportunity enterprise revolving fund] funds the costs of administering the [fund] funds and originating enterprise assistance.

F. Subsection K of Section 6-21-5, NMSA 1978 provides that the authority may fix charges and collect fees and other charges in connection with the making of loans, leases and any other services rendered by the authority. [2.93.1.6 NMAC – N, 4/25/2023; A, 7/30/2024]

2.93.1.7 DEFINITIONS:

A. “Act” means the Opportunity Enterprise and Housing Development Act, Sections 6-34-1 through [6-34-15] 6-34-xx, NMSA 1978, as the same may be amended and supplemented.

B. “Application” means a written document made publicly available by the authority and filed with the authority for enterprise assistance for the purpose of evaluating, in consultation with the department, the applicant’s qualifications and proposed enterprise development project or projects for types of enterprise assistance which may be provided by the authority under the act.

C. “Authority” means the New Mexico finance authority.

D. “Board” means the opportunity enterprise and housing development review board created by the act.

E. “Bylaws” means the amended and restated bylaws of the board adopted on [August 24, 2022] May 2, 2024, as amended and supplemented from time to time.

F. “Commercial development committee” means a standing committee, appointed by the chairman of the board from members of the board pursuant to the bylaws to review proposed enterprise development projects to be recommended for funding form the opportunity enterprise revolving fund.

[F] G. “Department” means the economic development department.

[G] H. “Economic development opportunities” means the advancement of an environmentally sustainable economic development goal of the state as determined by the authority, in coordination with the department, and includes the creation of jobs, the provision of needed services and commodities to diverse communities across the state and the increase of tax and other revenue collections resulting from the enterprise development project.

[H] I. “Enterprise assistance” means opportunity enterprise financing, an opportunity enterprise lease or an opportunity enterprise loan.

[I] J. “Enterprise development project” means the purchase, planning, designing, building, surveying, improving, operating, furnishing, equipping or

maintaining of land, buildings or infrastructure to create or expand economic development opportunities within the state.

[J] K. “[Fund means the opportunity enterprise revolving fund] Housing development assistance” means a loan for workforce development housing projects or affordable housing infrastructure.

L. “Housing development committee” means a standing committee, appointed by the chairman of the board from the members of the board pursuant to the bylaws to review proposed housing development projects to be recommended for funding from the housing development revolving fund.

M. “Housing development partners” means a domestic corporation, a general partnership, a limited liability company, a limited partnership, a public benefit corporation, a nonprofit entity or any other private business entity or combination thereof that the authority determines is or will be engaged in a project that creates or expands housing within the state and is eligible for housing development assistance pursuant to the act.

N. “Housing development project” means an affordable housing infrastructure project or a workforce development housing project.

O. “Middle income workers” means families with incomes that fall between the lesser of a local jurisdiction’s upper limit for housing assistance by relevant housing type or by the New Mexico Mortgage Finance Authority’s upper limit for housing development assistance, and three hundred percent of the US Housing and Urban Development Area Median Income for the county.

[K] P. “Opportunity enterprise partner” means a domestic corporation, a general partnership, a limited liability company, a limited partnership, a public benefit corporation, a nonprofit entity or other private business entity or combination thereof that the authority determines is or will be engaged in an enterprise

that creates or expands economic development opportunities within the state and is eligible for enterprise assistance pursuant to the act.

Q. “Opportunity Enterprise Revolving Fund” means the opportunity enterprise revolving fund.

[E.] “Project review committee” means a standing committee, appointed by the chairman of the board from the members of the board pursuant to the bylaws to review proposed enterprise development projects to be recommended for funding from the fund.

[M] R. “State” means the state of New Mexico.

S. “Workforce development housing” means below-market housing addressing demand for workforce housing for middle income workers in proximity to employment centers as determined by board policy.

T. “Workforce development housing project” means a residential real estate development project that involved the purchase, planning, designing, building, surveying, improving, operating, furnishing, equipping or maintaining of land, buildings or infrastructure that provides housing, including housing that provides the option of home ownership.

U. “Zoning reforms” means policies, procedures and regulations implemented by political subdivisions intended to decrease the costs and timing of constructing affordable housing and workforce housing, including expedited permitting, high density zoning, and other criteria as determined by policies of the board.

[2.93.1.7 NMAC – N, 4/25/2023; A, 7/30/2024]

2.93.1.9 ENTERPRISE DEVELOPMENT PROJECT PROPOSAL, REVIEW, PRIORITIZATION AND APPROVAL PROCESS:

A. The board and the department will administer an outreach program to local

governments and potential opportunity enterprise partners for the purpose of making recommendations to the authority regarding enterprise assistance, and to notify applicants that enterprise development project proposals are being accepted for review by the project review committee and the board for prioritization and recommendation for funding to the authority.

B. The authority will provide forms and guidelines for enterprise development project proposals and applications for enterprise assistance. The authority may consider the recommendations and priorities of the board.

C. Applications for enterprise assistance shall describe the scope and plans of the enterprise development project or proposed use of leased property, demonstrate that the enterprise development project or lease will create or expand economic development opportunities within the state, demonstrate that the enterprise project or lease will contribute to the diversification of the state’s economy, demonstrate that the enterprise development project or lease will comply with all applicable state and federal law, provide sufficient evidence that other means of financing a proposed enterprise development project are unavailable or insufficient, and include any other documentation or certifications that the authority deems necessary.

D. Department staff will complete an initial evaluation of the application for enterprise assistance and enterprise development project proposals promptly following receipt in consideration of information provided by applicants according to the factors listed in Subsection C of 2.93.1.9.NMAC. Such evaluation will include recommendations regarding suitability for enterprise assistance. The department may obtain input and information relevant to carrying out the purposes of the act from outside consultants in evaluating enterprise development project proposals and applications for enterprise assistance. The department will then forward to the [project-

review] commercial development committee for review, the relevant application and the corresponding recommendation of the department, along with all third-party input and information compiled by the department.

E. The [project review] commercial development committee will consider the proposed enterprise development project and may confer with outside parties, including any person familiar with the proposed enterprise development project, as necessary to obtain more information on the feasibility, merit, and cost of the proposed enterprise development project. The [project review] commercial development committee will make a recommendation to the board on each enterprise development project proposal.

F. Upon the recommendation of the [project review] commercial development committee, the board will prioritize the proposed enterprise development projects for recommendation to the authority for consideration of enterprise assistance.

G. After completion of the review process by the [project review] commercial development committee and the board and receipt of a favorable recommendation on the enterprise development project proposal, the prioritized enterprise development projects will be recommended by the board to the authority for consideration of enterprise assistance.

H. NMFA may request an additional application from recommended enterprise assistance projects.

I. A member of the board or employee of the authority with an interest, either direct or indirect, in an application or contract relating to enterprise assistance, shall disclose his or her interest to the authority and the board in writing and shall not participate in actions by the board or the authority with respect to that conflict.

[2.93.1.9 NMAC – N, 4/25/2023; A, 7/30/2024]

2.93.1.13

~~[RECONSIDERATION OF BOARD DECISIONS: Any applicant affected by a decision of the board may request reconsideration of the decision of the board by notifying the board in writing within 15 days following the meeting at which the decision was made. Notice of a decision made in an open meeting of the board is deemed to be given on the date of the meeting, and the time for notification of a request for reconsideration shall run from that date, regardless of whether any written notice of the decision is given by the board. A request for reconsideration shall state with particularity the grounds for reconsideration, including any factual or legal matter on which the applicant believes that there was an error by the board. Upon receiving a timely and proper request for reconsideration, the chair of the board will set the matter for reconsideration at the board's next regularly scheduled meeting or at a special meeting called for the purpose, at the chairman's discretion. Upon reconsideration by the board, the board will notify the applicant of the board's decision, in writing, within five working days of the decision. The decision of the board on reconsideration is final. A request for reconsideration not timely or properly made will not be considered by the board.] [RESERVED]~~
 [2.93.1.13 NMAC – N, 4/25/2023; Rn. 2.93.1.20 NMAC, Repealed, 7/30/2024]

2.93.1.14 ENTERPRISE ASSISTANCE CONTRACT:

A. The authority and opportunity enterprise partner awarded enterprise assistance will enter into a contract to establish the terms and conditions of enterprise assistance from the authority. The contract to provide enterprise assistance shall:

(1) define the roles and responsibilities of the authority and the opportunity enterprise partner;

(2) provide clawback or recapture provisions,

if applicable, that protect the public investment in the event of a default on the contract;

(3) provide a finance plan detailing the financial contributions and obligations of the authority and opportunity enterprise partner;

(4) require an opportunity enterprise partner to provide guarantees, letters of credit or other acceptable forms of security, as determined by the authority;

(5) specify how rents, if applicable, will be collected and accounted for;

(6) specify how debts incurred on behalf of the opportunity enterprise partner will be repaid; and

(7) provide that, in the event of a default, the authority may (a) elect to take possession of the property, including the succession of all right, title and interest in the enterprise development project; and (b) terminate the lease or cease any further funding and exercise any other rights and remedies that may be available.

B. The interest rate on any enterprise assistance extended, if applicable, shall be determined by the authority

C. The contract will contain provisions which require enterprise assistance recipients to comply with all applicable federal, state and local laws and regulations.

D. The authority will monitor terms of the contract and enforce or cause to be enforced all terms and conditions thereof, including prompt notice and collection. In the event of default under an enterprise assistance contract by an applicant, the authority may enforce its rights by suit or mandamus and may utilize all other available remedies under state and applicable federal law.

E. [AH] A list of contracts for enterprise assistance shall be provided to the board by the authority no later than thirty days from the execution of that contract. The board shall review contracts from time to time and determine whether the use of enterprise assistance is

a prudent expenditure of public funds and report to the legislature annually on that determination. The board [shah] may also make recommendations to the authority of potential rulemaking, application or lending changes to ensure transparent and efficient processes for carrying out the provisions of the act.
 [2.93.1.14 NMAC – N, 4/25/2023; A, 7/30/2024]

2.93.1.15 ELIGIBILITY AND PRIORITIZON POLICIES FOR HOUSING DEVELOPMENT PROJECTS:

The board will develop determine which housing development projects to recommend to the authority for housing development assistance from the housing development revolving fund. Board policies shall give priority to projects that:

A. demonstrate local support and need,

B. create or expand attainable housing units within the state,

C. are located in political subdivisions that have implemented zoning reforms, and

D. other means of financing a proposed housing development project are unavailable or insufficient. The board shall establish policies to consider in prioritizing housing development projects.

[2.93.1.15 NMAC – N, 7/30/2024]

2.93.1.16 HOUSING DEVELOPMENT PROJECT PROPOSAL, REVIEW, PRIORITIZATION AND APPROVAL PROCESS:

A. The board will administer an outreach program to local governments and potential housing development partners for the purpose of making recommendations to the authority regarding housing assistance, and to notify applicants that housing development project proposals are being accepted for review by the housing development committee and the board for prioritization and recommendation for funding to the authority.

B. The authority will provide forms and guidelines for housing development project proposals and applications for housing development assistance. The authority may consider the recommendations and priorities of the board.

C. Applications for housing development assistance shall describe the scope and plans of the housing development project, demonstrate that the housing development project will create or expand attainable housing within the state, and provide sufficient evidence that other means of financing a proposed housing development project are unavailable or insufficient, and include any other documentation or certifications that the authority deems necessary.

D. Authority staff will complete an initial evaluation of the application for housing assistance and housing development project proposals promptly following receipt in consideration of information provided by applicants according to the factors listed in Subsection C of 2.93.1.15. Such evaluation will include recommendations regarding suitability for housing development assistance. The authority may obtain input and information relevant to carrying out the purposes of the act from outside consultants in evaluating housing development project proposals and applications for housing assistance. The department will then forward to the housing development committee for review, the relevant application, and the corresponding recommendation of the department, along with all third-party input and information compiled by the department.

E. The housing development committee will consider the proposed housing development project and may confer with outside parties, including any person familiar with the proposed housing development project, as necessary to obtain more information on the feasibility, merit, and cost of the proposed housing development project. The housing development committee will make

a recommendation to the board on each housing development project proposal.

F. Upon the recommendation of the housing development committee, the board will prioritize the proposed housing development projects for recommendation to the authority for consideration of housing assistance.

G. After completion of the review process by the housing development committee and the board and receipt of a favorable recommendation on the housing development project proposal, the prioritized housing development projects will be recommended by the board to the authority for consideration of housing assistance.

H. NMFA may request an additional application from recommended housing development assistance projects.

I. A member of the board or employee of the authority with an interest, either direct or indirect, in an application or contract relating to housing development assistance, shall disclose his or her interest to the authority and the board in writing and shall not participate in actions by the board or the authority with respect to that conflict.

[2.93.1.16 NMAC – N, 7/30/2024]

2.93.1.17 HOUSING DEVELOPMENT PROJECTS AND ELIGIBLE COSTS:

A. The board may recommend to the authority that housing development assistance from the housing development revolving fund should be made available for housing development projects as provided by Section 6- 34-[xx], NMSA 1978.

B. Housing development assistance from the housing development revolving fund shall be made only for eligible items, a determined by the authority, which includes:

(1) opportunity housing loans;

(2) paying the reasonably necessary administrative costs and other costs and fees incurred

by the authority in carrying out the provisions of the act.

[2.93.1.17 NMAC – N, 7/30/2024]

2.93.1.18 HOUSING DEVELOPMENT PROJECT FINANCING:

The authority may recommend structured housing development assistance packages that include housing developments loans. The structure, terms and conditions of the loans will be determined by the authority.

[2.93.1.18 NMAC – N, 7/30/2024]

2.93.1.19 FINANCING

APPROVAL REQUIREMENTS:

Based on the priority and evaluation factors set forth in Sections 15, 16, and 17 above, as well as the requirements of the act, the board may recommend to the authority housing development projects for consideration of housing development assistance. Board recommendations may be considered by the authority but shall not be binding on the authority. A member of the board or employee of the authority with an interest, either direct or indirect, in an application or contract relating to housing assistance, shall disclose his or her interest to the authority and the board in writing and shall not participate in actions by the board or the authority with respect to that conflict.

[2.93.1.19 NMAC – N, 7/30/2024]

2.93.1.20

RECONSIDERATION OF BOARD DECISIONS:

Any applicant affected by a decision of the board may request reconsideration of the decision of the board by notifying the board in writing within 15 days following the meeting at which the decision was made. Notice of a decision made in an open meeting of the board is deemed to be given on the date of the meeting, and the time for notification of a request for reconsideration shall run from that date, regardless of whether any written notice of the decision is given by the board. A request for reconsideration shall state with particularity the grounds for reconsideration, including any factual

or legal matter on which the applicant believes that there was an error by the board. Upon receiving a timely and proper request for reconsideration, the chair of the board will set the matter for reconsideration at the board's next regularly scheduled meeting or at a special meeting called for the purpose, at the chairman's discretion. Upon reconsideration by the board, the board will notify the applicant of the board's decision, in writing, within five working days of the decision. The decision of the board on reconsideration is final. A request for reconsideration not timely or properly made will not be considered by the board.

[2.93.1.20 NMAC – N, 7/30/2024]

**HISTORY OF 2.93.1 NMAC:
[RESERVED]**

**REGULATION
AND LICENSING
DEPARTMENT
SPEECH-LANGUAGE
PATHOLOGY AND HEARING
AID DISPENSING PRACTICES
BOARD**

**NOTICE OF PUBLIC RULE
HEARING AND BOARD
MEETING**

The New Mexico Speech-Language Pathology, Audiology & Hearing Aid Dispensing Practices Board will hold a rule hearing on Friday, June 21, 2024, at 10:00 a.m., immediately followed by a meeting of the board to consider any public comment and adoption of the proposed rules listed below.

Public participation is welcomed, and comments may be submitted in writing during the public comment period, or in person during the public rule hearing. The hearing and subsequent meeting will take place at the Regulation and Licensing Department, Toney Anaya Building, Rio Grande Conference Room, located at 2550 Cerrillos Road, Santa Fe, New Mexico.

The hearing and subsequent meeting may also be accessed virtually via

Microsoft Teams.
Meeting Link: <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>
Meeting ID: 232 953 715 853
Passcode: qyUcV5
or
Join by Phone: +1-505-312-4308
Phone Access Code: 681 529 26#

The purpose of the rule hearing is to consider a new rule to be added to the current board rules:
16.26.3 NMAC – Scope of Practice.

Copies of the proposed rule may be obtained through the board website or contacting the Board Administrator through the information below:
<https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/speech-language-pathology-audiology-and-hearing-aid-dispensing-practices/statutes-rules-and-rule-hearings/>
Jen Rodgers, Sr. Board Administrator
(505) 476-4607 – Board Administrator Direct Line
speech.hearing@rld.nm.gov

Written comment will be accepted during the public comment period, up until Friday, June 21, 2024, and may be submitted either by email or by postal mail to the following addresses:
speech.hearing@rld.nm.gov
Attn: New Mexico Speech-Language Pathology, Audiology & Hearing Aid Dispensing Practices Board
P.O. Box 25101
Santa Fe, NM 87504

Written comments received during the public comment period prior to the public rule hearing will be posted to the board website page linked above. Public comment will also be accepted during the rule hearing and may be submitted in writing or presented orally by those attending both in-person and virtually. The board will not enter into substantive discussion of public comments during the rule hearing, but will consider and deliberate any public comment during the board meeting immediately following the conclusion of the public rule hearing.

The agenda for the board meeting, which will begin immediately after the public rule hearing, will be available no less than 72 hours prior to the meeting, and available on the Board website linked above or by contacting the Board Administrator.

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing, please contact the Board Administrator.

Statutory Authority:

The proposed rule changes are authorized by the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act, Sections 61-14B-1 through 61-14B-25 NMSA 1978, which provides explicit authority for the board to promulgate rules to protect public health and safety and carry out the provisions of the Act. The rulemaking and public rule hearing is governed by the State Rules Act, Sections 14-4-1 through 14-4-11 NMSA 1978, and the Default Procedural Rule for Rulemaking promulgated by the New Mexico Department of Justice, Parts 1.24.25.1 through 1.24.25.16 NMAC.

Purpose of Proposed Rules:

The proposed rule additions are intended to clarify the scope of practice for all license types under this board, but specifically Hearing Aid Dispensers, giving more specific direction on the treatment of certain cases. More generally, the proposed rules are intended to provide greater clarity in existing regulatory and statutory requirements, ensure continued high levels of professionalism among licensees and certificate holders, and to generally satisfy the Board's statutory obligation to promote, preserve and protect the public health, safety and welfare.

Summary of Proposed Rule:

16.26.3 NMAC – Scope of Practice; This new rule will clarify the scope of practice for all license types under

this board, and provide specific guidance to Hearing Aid Dispensers regarding the treatment and fitting of hearing aids for minors, persons with tinnitus, persons requiring cerumen removal, and persons with cochlear implants and other osseointegrated devices.

TAXATION AND REVENUE, DEPARTMENT OF

NOTICE OF PROPOSED RULEMAKING

The New Mexico Taxation and Revenue Department hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to amend/ repeal/replace and enact certain rules and regulations pertaining to the Gross Receipts and Compensating Tax Act. The State Records Center and Archives Administrative Law Division is requiring a repeal and replace of the entire regulation part Title 3: Taxation, Chapter 2: Gross Receipts Taxes, Part 116 Exemption - Gross Receipts Tax - Occasional Sale of Property or Services & Title 3: Taxation, Chapter 2: Gross Receipts Taxes, Part 211: Deduction - Gross Receipts Tax - Sale or Lease of Real Property and Lease of Manufactured Homes. - Applicability in order to make this amendment, citing Regulation Subsection C of 1.24.11.9 NMAC:

Summary of Proposed Changes:

The New Mexico Taxation and Revenue Department proposes to amend and enact the following rule(s):

Imposition of Gross Receipts and Compensating Tax Act

For ease of reference these changes are shown as amendments, see below on where to locate copies of the proposed rules:

Section 7-9-28 NMSA 1978
3.2.116.8 - *Criteria Used In*

Determining Isolated Or Occasional Sales

3.2.116.9 - *License To Do Business Or Holding Out To Do Business*

3.2.116.10 - [~~*Persons Hangin Three Or Fewer Rental Units*~~] *Persons Having Rental Units*

3.2.116.11 - *Sale Or Leasing The Same Or Similar Property:*

3.2.116.12 - *Executors' And Administrators' Fees:*

3.2.116.13 - *Trustee Fees:*

3.2.116.14 - *Safe Harbor Lease - Seller/Lessee*

Section 7-9-53 NMSA 1978

3.2.211.7 - *Definitions:*

3.2.211.8 - *Receipts From Providing Accommodations:*

3.2.211.9 - *Amount Attributable To Improvements And The Cost Of Land:*

3.2.211.10 - *Remodeling Or Other Improvements:*

3.2.211.11 - *Utilities - Sale Of Company Facilities*

3.2.211.12 - *Lease Of [~~Advertising Signs~~] Tangible Personal Property:*

3.2.211.13 - [~~*Gasoline Service Station Equipment Lease Receipts:*~~]

3.2.211.14 - *General Examples:*

3.2.211.16 - *Locker Rooms In A Warehouse/Self Storage Warehouse Units:*

3.2.211.17 - *Receipts From License To Use Real Property:*

New - 3.2.211.18 - Assisted Living Facilities

Section 7-9-58.1 NMSA 1978

New - 7.3.30X.7 - Definition

New - 7.3.30X.8 - Claiming

Section 7-9-121 NMSA 1978

New - 7.3.30X.7 - Definition

New - 7.3.30X.8 - Claiming

Technical Information: No technical information was consulted in drafting these proposed rule changes.

Purpose of Proposed Rule: The proposed repeal and replace is in accordance with the SRCA requirements. The regulation changes to Section 7-9-28 NMSA 1978 are to update the exemption language to clarify that short-term rentals

that are similar to hotels and motels do not qualify for the isolated and occasional exemption from gross receipts tax. It also clarifies for certain types of transactions why a person would not be seen as engaging in business in New Mexico and would therefore qualify for the isolated and occasional exemption. These regulations are also updated to make them more general focusing on the language of the statute rather than a specific industry. The regulation under Section 7-9-53 NMSA 1978 is updated to address assisted living facilities and make examples more general where possible. The new regulation parts are to address the two new gross receipts tax credits that will be effective July 1, 2024, in HB-252 from the 2024 legislative session, Section 14: Credit - gross receipts tax - legal services for wildfire compensation recovery, and Section 15: credit - gross receipts tax - sale of dyed special fuel used for agricultural purposes.

Notice of Public Rule Hearing: A public hearing will be held on the proposed rule changes on Thursday, June 20, 2024, from 1 PM to 2 PM at the 3rd floor in the Montoya Building, 1100 South St. Francis Drive, Santa Fe, New Mexico 87504. The hearing will be recorded, and oral comments can be made during the public hearing. Written comments can be submitted as outlined at the end of this notice.

Virtual meeting access also available using Join Zoom Meeting:
<https://us02web.zoom.us/j/6586491797?pwd=eHl6YlVtYjJlZVNIenZOS3VUV2Nudz09&omn=86021613310>
Meeting ID: 658 649 1797
Passcode: 062024

The rule proposals were placed on file in the Office of the Secretary on May 6, 2024. Pursuant to Regulation 3.1.2.9 NMAC under Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act, the final of the proposals, if filed, will be filed as required by law on or about July 16, 2024.

Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Bobbie Marquez at BobbieJ.Marquez@tax.nm.gov. The Taxation and Revenue Department will make every effort to accommodate all reasonable requests but cannot guarantee accommodation of a request that is not received at least ten calendar days prior to the scheduled hearing.

Copies of the proposed rules

may be found at: <https://www.tax.newmexico.gov/all-nm-taxes/proposed-regulations-hearing-notices/> or are available upon request by contacting the Tax Policy Office at policy.office@tax.nm.gov.

Notice of Acceptance of Written

Public Comment: Written comments on the proposals can be submitted by email to policy.office@tax.nm.gov or by mail to the Taxation and Revenue Department, Tax Information and Policy Office, Post Office Box 630, Santa Fe, New Mexico 87504-0630 on or by 5PM on Thursday, June 20, 2024. All written comments received by the agency will be posted on <https://www.tax.newmexico.gov/all-nm-taxes/proposed-regulations-hearing-notices/> no more than 3 business days following receipt to allow for public review.

**End of Notices of
Rulemaking and
Proposed Rules**

This Page Intentionally Left Blank

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 in the State Rules Act. Unless a later date is otherwise provided by law, the effective date of the rule shall be the date of publication in the New Mexico Register. Section 14-4-5 NMSA 1978.

GAMING CONTROL BOARD

This is an amendment to 15.1.5 NMAC, Section 23, effective 5/21/2024.

15.1.5.23 APPLICATION FEES:

A. The applicant shall pay, in the amount and manner prescribed by this rule, all license fees and fees and costs incurred in connection with the processing and investigation of any application submitted to the board.

B. Applicants shall submit the following nonrefundable fees with an application for licensure or other approval:

- (1) gaming machine manufacturer's license, [~~\$10,000~~] \$15,000;
- (2) associated equipment manufacturer's license, [~~\$2,500~~] \$5,000;
- (3) gaming machine distributor's license, [~~\$5,000~~] \$7,500;
- (4) associated equipment distributor's license, \$1,000;
- (5) gaming operator's license for racetrack, \$25,000;
- (6) gaming operator's license for nonprofit organization, \$100;
- (7) gaming machine license, \$100 per machine;
- (8) work permit, \$75;
- (9) certification of finding of suitability, \$100 for each person requiring investigation;
- (10) limited use distributor's license, \$1,000; and

(11)

replacement fee for identification badge, \$10.

C. In addition to any nonrefundable license or approval fee paid, the applicant shall pay all supplementary investigative fees and costs, as follows:

(1) an applicant for a manufacturer's license, distributor's license, or gaming operator's license for a racetrack shall pay, in advance, an amount equal to the license fee as a deposit on fees and costs of the investigation; upon completion of the investigation and determination of the actual fees and costs, the board shall refund overpayments or charge the applicant for underpayments in an amount sufficient to reimburse the board for actual fees and costs;

(2) all other applicants shall reimburse the board in an amount sufficient to cover actual fees and costs of the investigation upon completion of the investigation; and

(3) all applicants shall fully reimburse the board within 30 days of receipt of notice of actual fees and costs incurred by the board for any underpayment or other amount owed by the applicant.

D. Investigative fees are charged at the rate of \$50 per hour for each hour spent by investigators of the board or the board's agents in conducting an investigation. In addition to fees, costs to be paid by the applicant include transportation, lodging, meals, and other expenses associated with traveling, which expenses shall be reimbursed based on state mileage and per diem rules, and office expenses, document copying costs, and other reasonable expenses incurred. Checks shall be made payable to the New Mexico gaming control board.

E. In addition to

any nonrefundable application and supplementary investigation fees and costs, licensed manufacturers and distributors shall pay a gaming device inspection fee in an amount not to exceed the actual cost of the inspection. The manufacturer or distributor shall pay the estimated cost of the inspection in advance. Upon completion of the inspection and determination of the actual cost, the board shall refund overpayments or charge the manufacturer or distributor for underpayments in an amount sufficient to reimburse the board for the actual cost. The manufacturer or distributor shall fully reimburse the board within 30 days of receipt of notice of underpayment. Lab fees are charged at the rate of \$50 per hour for each hour spent by the board's technical personnel to inspect or test a gaming device.

F. The board may refuse to take final action on any application unless all license, approval, and investigation fees and costs have been paid in full. The board shall deny the application if the applicant refuses or fails to pay all such fees and costs. In addition to any other limitations on reapplication, the applicant shall be debarred from filing any other application with the board until all such fees and costs are paid in full.

G. If the board determines at any time during the application process that the applicant is not qualified, or cannot qualify, to hold the license or other approval sought, the board shall notify the applicant, in writing. The board shall discontinue investigation and processing of the application and shall issue a final, written order denying the application.

H. The maximum fee for processing any application shall

not exceed \$100,000, regardless of actual costs of supplemental investigations.

I. The board may contract with any state board or agency to conduct any investigation required or permitted to be conducted under the act or board regulations, as determined necessary by the board.

J. Neither the license or approval fees nor any other fees or costs arising in connection with the application or investigation shall be refunded or waived on the grounds that the application was denied or withdrawn or that processing was otherwise terminated.

K. Gaming machine licensing fees may be pro-rated if the license is granted within three months of December 31.

[15.1.5.23 NMAC - Rp, 15.1.5.21 NMAC, 6/30/2016; A, 5/21/2024]

GAMING CONTROL BOARD

This is an amendment to 15.1.10 NMAC, Sections 7, 25, 32, and 45 effective, 5/21/2024.

15.1.10.7 DEFINITIONS:

Unless otherwise defined below, terms used in this rule have the same meanings as set forth in the Gaming Control Act:

A. “act” means the Gaming Control Act;

B. “additional payout” means a supplemental cash payout, based on a jackpot, that is not reflected in the gaming machine pay table (e.g., double jackpot);

C. “affiliate” means a corporation that is related to another corporation by shareholdings or other means of control; a subsidiary, parent, or sibling corporation;

D. “allocate” means the transfer of an allocating racetrack’s right to operate a number of its authorized gaming machines to the receiving racetrack;

E. “allocation agreement” means a written contract between an allocating racetrack and a receiving racetrack;

F. “allocating racetrack” means a racetrack gaming operator licensee that has allocated or is proposing to allocate a number of its authorized gaming machines to a receiving racetrack pursuant to a valid allocation agreement;

G. “allowable gaming expenses” means the following bona fide expenses in reasonable and customary amounts:

- ~~(1) purchase prices of non-cash prizes;~~
- ~~(2) security and surveillance expenses;~~
- ~~(3) independent accountant’s fees;~~
- ~~(4) license fees, including renewals and gaming machine license fees;~~
- ~~(5) utilities attributable to the licensed premises;~~
- ~~(6) installment payments to an independent administrator or lease payments for licensed gaming machines;~~
- ~~(7) gaming device repair and maintenance;~~
- ~~(8) gaming employee salaries and employment taxes;~~
- ~~(9) gaming supplies;~~
- ~~(10) approved management fees; and~~
- ~~(11) licensed premises repair and maintenance;]~~

H. “balance of net take” means the amount of net take remaining after the gaming operator licensee pays the gaming tax, income and other applicable taxes, and allowable gaming expenses as set forth in this rule;

I. “charitable purposes” means activities that promote, directly or indirectly, the well-being of the public at large or the benefit of an indefinite number of persons in the state; the term “charitable purposes” does not include operating expenses of the organization or any affiliated organization;

J. “control” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the licensee or to

exercise significant influence over management and policies due to financial investment, assumption of debts or expenses, or other monetary or non-monetary considerations extended to the licensee;

K. “credit slip” means a cash-out ticket for winnings earned on a gaming machine that provides for credit play;

L. “disciplinary action” means an action by the board that limits, conditions, suspends or revokes a license, registration, finding of suitability or prior approval issued by the board, or an assessment of a fine by the board, or any combination of the foregoing;

M. “educational purposes” means activities or uses that develop the capabilities of individuals by formal instruction; the term “educational purposes” does not include the operating expenses of the organization or any affiliated organization;

N. “gaming credit” means an accumulation of awards on a gaming machine display screen rather than from the dispensing of winnings from a hopper; one gaming credit equals the denomination of the game being played;

O. “independent administrator” means:

- (1) a bank licensed by the state or a national bank with an office in the state; or
- (2) an insurance company admitted to transact business in the state with a best insurance rating of “A,” “A+” or “A-”; and
- (3) one that is not an affiliate of the gaming operator licensee;

P. “receiving racetrack” means a racetrack gaming operator licensee that is proposing to receive, or has received pursuant to a valid allocation agreement, allocated gaming machines from an allocating racetrack;

Q. “management contractor” means any person that has entered into a management contract with a gaming operator licensee; a management contractor may not be an affiliate of the licensee;

R. “nonprofit operator licensee” means a qualified nonprofit organization that has obtained a gaming operator’s license pursuant to the provisions of the act and board regulations;

S. “periodic payments” means a series of payments that are paid at least annually and includes annuities;

T. “person” means a legal entity or individual;

U. “personal property award” means an award of personal property based on gaming machine play;

V. “promotion” means a short-term program designed to stimulate participation in gaming activities by patrons through advertising and the award of cash and non-cash prizes, not based on a jackpot; “promotion” includes the gift of nominal value items, such as T-shirts and mugs; and includes player’s clubs or similar programs in which gaming patrons accumulate points, which can be exchanged for cash, machine credits, merchandise or any other thing of value;

W. “state” means the state of New Mexico;

X. “this title” means Title 15, Chapter 1 of the state administrative code;

Y. “trust” means an irrevocable fiduciary relationship in which one person is the holder of the title to property subject to an equitable obligation to keep or use the property for the benefit of another. [15.1.10.7 NMAC - Rp, 15.1.10.7 NMAC, 1/29/2016; A, 5/21/2024]

15.1.10.25 PAYMENT OF WINNINGS:

A. No gaming machine offered for play by a nonprofit operator licensee shall award a prize that exceeds [~~four thousand dollars (\$4,000)~~ ten thousand dollars (\$10,000)]. Nonprofit operator licensees shall not offer periodic payments of cash or non-cash winnings and shall remit the total winnings and non-cash prizes awarded to a patron as the result of any licensed game upon validation of the win.

(1) Every gaming machine offered for play by a nonprofit operator licensee shall have affixed to it in a prominent fashion, a notice stating the maximum jackpot possible for that machine.

(2) If a gaming machine offered for play by a nonprofit operator awards a jackpot exceeding the maximum jackpot set/posted for that machine, the gaming operator shall immediately remove the machine from play and notify the operations and enforcement divisions of the NMGCB and the licensee’s gaming machine distributor. It shall be the responsibility of the distributor to determine in five working days whether the excessive jackpot is a machine malfunction or the result of failed programming on the part of the distributor. A copy of the distributor’s findings shall be returned to the licensee and the operations and enforcement divisions of the NMGCB prior to being returned to play on the nonprofit operator’s gaming floor. It shall be an unsuitable method of operation for a distributor to put into play a gaming machine with programming that exceeds the jackpot posted on a gaming machine.

B. Except as otherwise provided in this title, a racetrack gaming operator licensee shall remit the total winnings and non-cash prizes awarded to a patron as the result of any licensed game upon validation of the win.

C. If a gaming operator licensee uses ticket-in/ticket out technology, a patron shall be required to personally present the ticket for redemption at the licensee’s premises. A licensee shall not redeem tickets by mail or by any common carrier. [15.1.10.25 NMAC - Rp, 15.1.10.25 NMAC, 1/29/2016; A, 5/21/2024]

15.1.10.32 USE OF GAMING RECEIPTS BY NONPROFIT OPERATOR LICENSEE:

A. A nonprofit operator licensee may utilize up to sixty five percent of net take, after payment of the gaming tax, to pay allowable expenses in reasonable amounts for conducting gaming activities on its

licensed premises. If the nonprofit operator licensee has entered into a valid lease or other arrangement for furnishing gaming machines, the sixty five percent maximum shall be distributed as follows:

(1) the maximum of forty percent of net take after gaming taxes or no greater than the contract amount if less than forty percent for payment to licensed distributors pursuant to a lease or other arrangement for furnishing a gaming machine;

(2) for payment of other allowable gaming expenses, an amount equal to the difference between sixty five percent of net take less the amount paid to the distributor as described above.

B. The percentage set forth in this section constitutes the maximum amount that may be paid annually for allowable gaming expenses from net take. No other expenses related to or arising out of gaming activities shall be paid from net take or gaming revenues, including but not limited to supplies, fees for management and other services, and repairs to and maintenance of licensed premises and gaming devices. These funds shall be transferred each month to the licensed organization’s operating account.

C. A nonprofit operator licensee shall not under any circumstances pay to any distributor licensee the percentage payment allowed in this section, until the required charitable and educational deposits have been made, gaming tax and other applicable taxes have been paid and all taxes and fees are current.

D. The nonprofit operator licensee shall distribute at least [~~sixty~~] twenty percent of the balance of net take to charitable or educational purposes, which purposes do not include gaming expenses. All funds required to be spent for charitable or educational purposes must be expended each year within 120 days after close of the nonprofit operator licensee’s fiscal year end. The maximum forty percent of net take, after gaming taxes, remaining after such distribution may be used

for other expenses at the discretion of the nonprofit operator licensee, provided none of those expenses shall be incurred to compensate a licensed distributor for the furnishing of gaming machines.

E. Distributions for charitable purposes shall be made solely for benevolent, social welfare, philanthropic, humane, public health, civic or other objectives or activities to benefit the welfare of the public at large or an indefinite number of persons.

(1) Charitable distributions shall not be used to fund operating or capital expenses of any nonprofit gaming operator or any affiliated organization of a nonprofit gaming operator.

(2) A charitable distribution shall be made to an organization outside the state of New Mexico only if the organization is either a charitable organization under Section 501(c)(3) of the Internal Revenue Code or the organization is the nonprofit gaming operator’s national organization and the distribution is used for charitable purposes.

F. Educational distributions shall be expended solely to benefit an educational institution or organization or to provide financial assistance to individuals in their pursuit of educational goals.

G. The board shall maintain and publish guidelines that establish the allowed and disallowed uses for charitable and educational funds. The nonprofit operator licensee shall comply with these guidelines in making distributions from its charitable and educational account.

H. The executive director of the board shall disallow any distribution for charitable and educational purposes not in compliance with this rule. If a charitable or educational distribution is disallowed by the executive director, the nonprofit gaming operator may appeal that decision to the board pursuant to Section 60-2E-59 of the act.

[15.1.10.32 NMAC - Rp, 15.1.10.32 NMAC, 1/29/2016; A, 5/21/2024]

15.1.10.45 NONPROFIT CONTRACTS:

A. A nonprofit gaming operator and distributor licensee jointly shall submit any contract or lease agreement between the nonprofit gaming operator licensee or distributor licensee and any other licensee to the board for review not less than 30 calendar days before the contract or lease agreement goes into effect. The term “contract or lease agreement” shall include any amendment of an existing contract or lease agreement.

B. Any contract or lease agreement submitted for review shall include copies of any ancillary agreement, shall state with specificity the beginning and expiration date of the contract, shall state the maximum jackpot agreed upon by the parties for each machine being installed, and shall include meeting minutes or other evidence that the contract has been approved by the nonprofit gaming operator’s governing body.

C. The contract or lease agreement shall be deemed approved unless the board disapproves the contract or lease agreement in writing prior to the effective date of the contract or lease agreement. The board shall disapprove a contract or lease agreement submitted for review if the contract or lease agreement was not submitted in compliance with this rule or if it directly or indirectly permits another licensee to manage or otherwise control the nonprofit gaming operator licensee.

D. The factors that may be considered by the board to be indicia of direct or indirect management or control include, but are not limited to:

(1) whether the amount and terms of any loans made to the nonprofit gaming operator licensee, including the principal amount, interest rate, monthly payment and re-payment period, are disproportionate to the assets of the nonprofit gaming operator licensee or create an excessive debt to income ratio;

(2) whether the terms and conditions of any gift, donation or other benefit conferred to the non-profit gaming operator licensee permit another licensee to exercise any direct or indirect management or control over the day-to-day operations of the nonprofit gaming operator licensee;

(3) whether the contract or agreement contains a provision that calls for automatic renewal of the contract or agreement without notice,

(4) whether the term of the contract or agreement is greater than five years,

(5) whether any other term or condition of the lease agreement or contract permits any licensee to effectively exercise direct or indirect management or control over any of the day-to-day operations of the nonprofit gaming operator licensee.

[15.1.10.45 NMAC - Rp, 15.1.10.45 NMAC, 1/29/2016; A, 5/21/2024]

NURSING, BOARD OF

The New Mexico Board of Nursing, reviewed and approved at its 1/4/204 meeting, after at its 4/5/2024 hearing, to repeal its rule 16.12.9 NMAC, Nursing and Health Care Related Providers -Management of Chronic Pain with Controlled Substances filed 11/20/2012and replace it with 16.12. NMAC, Nursing and Health Care Related Providers - Management of Chronic Pain with Controlled Substances adopted 5/8/2024 effective 5/21/2024.

NURSING, BOARD OF

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 12 NURSING AND HEALTH CARE RELATED PROVIDERS
PART 9 MANAGEMENT OF CHRONIC PAIN WITH CONTROLLED SUBSTANCES**

16.12.9.1 ISSUING
AGENCY: New Mexico Board of Nursing.
 [16.12.9.1 NMAC - Rp, 16.12.9.1 NMAC 5/21/2024]

16.12.9.2 SCOPE: This rule applies to all advanced practice nurses, including certified nurse practitioners, certified registered nurse anesthetists, and clinical nurse specialists with prescriptive authority.
 [16.12.9.2 NMAC - Rp, 16.12.9.2 NMAC 5/21/2024]

16.12.9.3 STATUTORY
AUTHORITY: Section 61-3-1 NMSA 1978 *et seq.*, authorized the board of nursing to regulate the practice of nursing in the state and the Pain Relief Act, Sections 24-2D-1 through 24-2D-7 NMSA 1978.
 [16.12.9.3 NMAC - Rp, 16.12.9.3 NMAC 5/21/2024]

16.12.9.4 DURATION:
 Permanent.
 [16.12.9.4 NMAC - Rp, 16.12.9.4 NMAC 5/21/2024]

16.12.9.5 EFFECTIVE
DATE: May 21, 2024, unless a later date is cited at the end of a section.
 [16.12.9.5 NMAC - Rp, 16.12.9.5 NMAC 5/21/2024]

16.12.9.6 OBJECTIVE: It is the position of the board that certified nurse practitioners, certified registered nurse anesthetists and clinical nurse specialists with prescriptive authority have an obligation to treat chronic pain and that a wide variety of medicines including controlled substances and other drugs may be prescribed after a thorough evaluation has been completed.
 [16.12.9.6 NMAC - Rp, 16.12.9.6 NMAC 5/21/2024]

16.12.9.7 DEFINITIONS:
A. Definitions
beginning with “A”:
 (1) **“acute pain”**, means the normal, predicted physiological response to a noxious chemical or thermal or mechanical stimulus, typically associated with

invasive procedures, trauma or disease and generally time limited;
 (2)

“addiction”, is a neurobehavioral syndrome with genetic and environmental influences that results in psychological dependence on the use of substances for their psychic effects. It is characterized by behaviors that include one or more of the following: impaired control over drug use; compulsive use; continued use despite harm; and craving. Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for pain and should not by themselves be considered addiction.

B. Definitions
beginning with “B”: [RESERVED]

C. Definitions
beginning with “C”:
 (1) **“chronic pain”** means pain that persists after reasonable efforts have been made to relieve the pain or its cause and that continues, either continuously or episodically, for longer than three consecutive months. “Chronic pain” does not, for the purpose of the Pain Relief Act requirements, include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition;

(2) **“clinical expert”** means a person who, by reason of specialized education or substantial relevant experience in pain management, has knowledge regarding current standards, practices and guidelines.

D. Definitions
beginning with “D”: **“drug abuser”** means a person who takes a drug or drugs for other than legitimate medical purposes.

E. Definitions
beginning with “E”: [RESERVED]

F. Definitions
beginning with “F”: [RESERVED]

G. Definitions
beginning with “G”: [RESERVED]

H. Definitions
beginning with “H”: [RESERVED]

I. Definitions
beginning with “I”: [RESERVED]

J. Definitions
beginning with “J”: [RESERVED]

K. Definitions
beginning with “K”: [RESERVED]

L. Definitions
beginning with “L”: [RESERVED]

M. Definitions
beginning with “M”:
 [RESERVED]

N. Definitions
beginning with “N”: **“nursing facility”** means a long term care facility in which the patient is a current fulltime resident and whose medications are solely administered and managed by the facility.

O. Definitions
beginning with “O”:
 (1) **“opioid**

analgesic” means buprenorphine, butorphanol, codeine, hydrocodone, hydromorphone, levorphanol, meperidine, methadone, morphine, nalbuphine, oxycodone, oxymorphone, pentazocine and propoxyphene as well as their brand names, isomers and combinations;

(2) **“opioid antagonist”** means a drug approved by the federal food and drug administration that when administered negates or neutralizes in whole or in part the pharmacological effects of an opioid analgesic in the body, including naloxone and such other medications approved by the board of pharmacy for the reversal of opioid analgesic overdoses.

P. Definitions
beginning with “P”:

(1) **“pain”** means an unpleasant sensory and emotional experience associated with inflammation or with actual or potential tissue damage, or described in terms of such inflammation and damage, which could include acute, persistent or chronic pain;

(2) **“physical dependence”** means a state of adaptation that is manifested by a drug-specific withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, administration of an antagonist, or a combination of these;

(3)

“prescription monitoring program (PMP)” means a centralized system to collect, monitor, and analyze electronically, for controlled substances, prescribing and dispensing data submitted by pharmacies and dispensing practitioners. The data are used to support efforts in education, research, enforcement and abuse prevention.

Q. Definitions

beginning with “Q”: [RESERVED]

R. Definitions

beginning with “R”: [RESERVED]

S. Definitions

beginning with “S”: [RESERVED]

T. Definitions

beginning with “T”:

(1)

“therapeutic purpose” means the use of pharmaceutical and non-pharmaceutical treatments and the spectrum of available modalities that conforms substantially to accepted guidelines for pain management.

(2)

“tolerance” means a state of adaptation in which exposure to a drug induces changes that result in a diminution of one or more of the drug’s effects over time.

U. Definitions

beginning with “U”: [RESERVED]

V. Definitions

beginning with “V”: [RESERVED]

W. Definitions

beginning with “W”:
[RESERVED]

X. Definitions

beginning with “X”: [RESERVED]

Y. Definitions

beginning with “Y”: [RESERVED]

Z. Definitions

beginning with “Z”: [RESERVED]
16.12.9.7 NMAC - Rp, 16.12.9.7
NMAC 5/21/2024]

16.12.9.8 RULES: The following rules shall be used by the board to determine whether an advanced practice nurse’s prescriptive practices are consistent with the appropriate treatment of pain.

A. The treatment of pain with various medicines or controlled substances is a legitimate nursing practice when

accomplished in the usual course of professional practice. It does not preclude treatment of patients with addiction, physical dependence or tolerance who have legitimate pain. However, such patients do require very close monitoring and precise documentation.

B. Pain management for patients should include a contractual agreement, the use of drug screens prior to treatment with opiates and during the course of treatment to identify actual drugs being consumed and to compare with patients self-reports. If concerns about misuse are identified, the patient will be referred for appropriate consultation, and scheduled for re-evaluation at appropriate time intervals.

C. The prescribing, ordering, administering or dispensing of controlled substances to meet the individual needs of the patient for management of chronic pain is appropriate if prescribed, ordered, administered or dispensed in compliance with the following.

(1) An advanced practice nurse shall complete a history and physical examination and include an evaluation of the patient’s psychological and pain status. The medical history shall include any previous history of significant pain, past history of alternate treatments for pain, potential for substances abuse, coexisting disease or medical conditions, and the presence of a medical indication and supporting diagnostic documentation or contra-indication against the use of controlled substances.

(2) An advanced practice nurse shall be familiar with and employ screening tools, as well as the spectrum of available modalities for therapeutic purposes, in the evaluation and management of pain. They shall consider an integrative approach to pain management specialists including but not limited to an acupuncturist, chiropractor, doctor of oriental medicine, exercise physiologist, massage therapist, pharmacist, physical therapist, psychiatrist, psychologist or other advanced practice registered nurse.

(3)

A written treatment plan shall be developed and tailored to the individual needs of the patient, taking age, gender, culture, and ethnicity into consideration, with stated objectives by which treatment can be evaluated, e.g. by degree of pain relief, improved physical and psychological function, or other accepted measure. Such a plan should include a statement of the need for further testing, consultation, referral or use of other treatment modalities.

(4)

If the patient’s pain relief plateaus on controlled substance analgesic(s), then the treatment plan should include an evaluation of continuing or tapering the controlled substance therapy.

(5)

The practitioner shall provide education and discuss the risks and benefits of using controlled substances with the patient or surrogate or guardian, and shall document this in the record.

(6)

Complete and accurate records of care provided and drugs prescribed shall be maintained. When controlled substances are prescribed, the name of the drug, quantity, and prescribed dosage should be recorded. Prescriptions for opioids shall include indications for use. For chronic non-cancer pain patients treated with controlled substance analgesic(s), the prescribing practitioner shall use a written agreement for treatment with the patient outlining patient responsibilities. As part of a written agreement, chronic non-cancer pain patients shall receive all chronic pain management prescriptions from one practitioner and one pharmacy whenever possible.

(7)

The management of patients needing chronic pain control requires monitoring by the attending or the consulting practitioner. The practitioner shall periodically review the course of treatment for chronic non-cancer pain, the patient’s state of health, and any new information about the etiology of the chronic non-cancer pain at least every three months. In addition, a practitioner should consult, when indicated by the

patient’s condition, with health care professionals who are experienced (by the length and type of their practice) in the area of chronic pain control; such professionals need not be those who specialize in pain control. Consultation should occur early in the course of long-term treatment, and at reasonable intervals during continued long-term treatment for assessment of benefit and need. Drug screening is expected and should be conducted when other factors suggest an elevated risk of misuse or diversion.

(8) If, in a practitioner’s opinion, a patient is seeking pain medication for reasons that are not medically justified, the practitioner is not required to prescribe controlled substances for the patient.

D. The board will evaluate the quality of care on the following basis: appropriate diagnosis and evaluation; appropriate medical indication for the treatment prescribed; documented change or persistence of the recognized medical indication; and, follow-up evaluation with appropriate continuity of care. The board will judge the validity of prescribing based on the advanced practice nurse’s treatment of the patient and on available documentation, rather than on the quantity and chronicity of prescribing. The goal is to control the patient’s pain for its duration while effectively addressing other aspects of the patient’s functioning, including physical, psychological, social, and work-related factors.

E. The board will review both over-prescription and under-prescription of pain medications using the same standard of patient protection as a guiding principle.

F. The advanced practice nurse who prescribes, within their scope of practice, distributes or dispenses an opioid analgesic for the first time to a patient shall advise the patient on the risks of overdose and inform the patient of the availability of an opioid antagonist. With respect to a patient to whom an opioid analgesic has previously been

prescribed, distributed or dispensed by the advanced practice nurse, the advanced practice nurse shall advise the patient on the risks of overdose and inform the patient of the availability of an opioid antagonist on the first occasion that the advanced practice nurse prescribes, distributes or dispenses an opioid analgesic each calendar year.

G. An advanced practice nurse who prescribes an opioid analgesic for a patient shall co-prescribe an opioid antagonist if the amount of opioid analgesic being prescribed is at least a five-day supply. The prescription for the opioid antagonist shall be accompanied by written information regarding the temporary effects of the opioid antagonist and techniques for administering the opioid antagonist. That written information shall contain a warning that a person administering the opioid antagonist should call 911 immediately after administering the opioid antagonist, unless that person is a health care provider as provided in the Pain Relief Act.

H. An advanced practice nurse who appropriately prescribes controlled substances and who follows this section would be considered to be in compliance with this rule and not be subject to discipline by the board, unless there is some violation of the Nursing Practice Act, board rules and Pain Relief Act Sections 24-2D-1 through 24-2D-7 NMSA 1978.

[16.12.9.8 NMAC - Rp, 16.12.9.8 NMAC 5/21/2024]

16.12.9.9 PRESCRIPTION MONITORING PROGRAM (PMP) REQUIREMENTS:

The intent of the New Mexico board of nursing in requiring participation in the PMP is to assist advanced practice nurses in balancing the safe use of controlled substances with the need to impede harmful and illegal activities involving these pharmaceuticals.

A. Any advanced practice nurse who holds a federal drug enforcement administration registration and a New Mexico controlled substance registration shall

register with the board of pharmacy to become a regular participant in PMP inquiry and reporting.

B. An advanced practice nurse may authorize delegate(s) to access the prescription monitoring report consistent with board of pharmacy regulation 16.19.29 NMAC. While an advanced practice nurse’s delegate may obtain a report from the state’s prescription monitoring program, the advanced practice nurse is solely responsible for reviewing the prescription monitoring report and documenting the receipt and review of a report in the patient’s medical record.

C. Before an advanced practice nurse prescribes or dispenses for the first time, a controlled substance in Schedule II, III, IV or V to a patient for a period greater than four days, or if there is a gap in prescribing the controlled substance for 30 days or more, the practitioner shall review a prescription monitoring report for the patient for the preceding 12 months. When available, the practitioner shall review similar reports from adjacent states. The practitioner shall document the receipt and review of such reports in the patient’s medical record.

D. A prescription monitoring report shall be reviewed a minimum of once every three months during the continuous use of a controlled substance in schedule II, III, IV or V for each patient. The practitioner shall document the review of these reports in the patient’s medical record. Nothing in this section shall be construed as preventing an advanced practice nurse from reviewing prescription monitoring reports with greater frequency than that required by this section.

E. An advanced practice nurse does not have to obtain and review a prescription monitoring report before prescribing, ordering, or dispensing a controlled substance in schedule II, III, IV or V:

- (1) for a period of four days or less; or
- (2) to a patient in a nursing facility; or

(3) to a patient in hospice care.

F. Upon review of a prescription monitoring report for a patient, the advanced practice nurse shall identify and be aware of a patient currently:

(1) receiving opioids from multiple prescribers;

(2) receiving opioids and benzodiazepines concurrently;

(3) receiving opioids for more than 12 consecutive weeks;

(4) receiving more than one controlled substance analgesic;

(5) receiving opioids totaling more than 90 morphine milligram equivalents per day;

(6) exhibiting potential for abuse or misuse of opioids and other controlled substances, such as over-utilization, requests to fill early, requests for specific opioids, requests to pay cash when insurance is available, receiving opioids from multiple pharmacies.

G. Upon recognizing any of the above conditions described in paragraph F, the practitioner, using professional judgement based on prevailing standards of practice, shall take action as appropriate to prevent, mitigate, or resolve any potential problems or risks that may result in opioid misuse, abuse, or overdose. These steps may involve counseling the patient on known risks and realistic benefits of opioid therapy, prescription and training for naloxone, consultation with or referral to a pain management specialist, or offering or arranging treatment for opioid or substance use disorder. The practitioner shall document actions taken to prevent, mitigate, or resolve the potential problems or risks.

H. Practitioners licensed to practice in an opioid treatment program, as defined in 7.32.8 NMAC, shall review a prescription monitoring report upon a patient's initial enrollment into the opioid treatment program and

every three months thereafter while prescribing, ordering, administering, or dispensing opioid treatment medications in schedule II, III, IV or V for the purpose of treating opioid use disorder. The practitioner shall document the receipt and review of a report in the patient's medical record. [16.12.9.9 NMAC - Rp, 16.12.9.9 NMAC 5/21/2024]

16.12.9.10 NON-CANCER PAIN MANAGEMENT CONTINUING EDUCATION: Any advanced practice registered nurse (APRN) with a drug enforcement agency (DEA) registration and licensure that permits prescribing opioids, shall obtain continuing education on the management of non-cancer pain. These practitioners shall be required to obtain five contact hours every renewal period to include a review of these rules 16.12.9 NMAC for management of non-cancer pain, an understanding of the pharmacology and risks of controlled substances, a basic awareness of the problems of abuse, addiction and diversion, and awareness of state and federal regulations for the prescription of controlled substances. [16.12.9.10 NMAC - Rp, 16.12.9.10 NMAC 5/21/2024]

16.12.9.11 NOTIFICATION: The board shall notify the following persons of the Pain Relief Act and Part 9 of the New Mexico nursing board rule: 16.12.9 NMAC. The board shall notify health care providers under its jurisdiction of the Pain Relief Act and rules, including health care providers under investigation by the board for pain management services. [16.12.9.11 NMAC - Rp, 16.12.9.11 NMAC 5/21/2024]

16.12.9.12 ADVANCED PRACTICE NURSES, REGISTERED NURSES, AND LICENSED PRACTICAL NURSES TREATED WITH OPIATES: Advanced practice nurses, registered nurses, licensed practical nurses, certified hemodialysis technicians,

and certified medication aides who have chronic pain and are being treated with opiates shall be evaluated by a pain clinic or, by a physician, CRNA, CNP, CNS pain specialist and must have clearance from their practitioner, before returning to or continuing in practice and must remain under the care of a physician, CRNA, CNP or CNS for as long as they remain on opiates and continue to practice. The treating physician, CRNA, CNP or CNS may, at her or his discretion, order a neuropsychological evaluation to help determine clearance for practice. [16.12.9.12 NMAC - Rp, 16.12.9.12 NMAC 5/21/2024]

HISTORY OF 16.12.9 NMAC:
[RESERVED]

History of Repealed Material:
16.12.9 NMAC, Management Of Chronic Pain With Controlled Substances, filed 12/21/2005 - Repealed effective 5/21/2024.

Other History: 16.12.9 NMAC, Management Of Chronic Pain With Controlled Substances, filed 12/21/2005 Replaced 16.12.9 NMAC, Management Of Chronic Pain With Controlled Substances, effective 5/21/2024.

NURSING, BOARD OF

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 12 NURSING AND HEALTH CARE RELATED PROVIDERS
PART 14 NURSING PRACTICE IN AESTHETIC HEALTHCARE FACILITIES

16.12.14.1 ISSUING AGENCY: New Mexico Board of Nursing.
[16.12.14.1 NMAC - N, 5/21/2024]

16.12.14.2 SCOPE: These rules apply to individuals licensed by the board who are providing health

care in aesthetic healthcare facilities.
[16.12.14.2 NMAC - N, 5/21/2024]

16.12.14.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Nursing Practice Act, Sections 61-3-1 to -30 NMSA 1978.
[16.12.14.3 NMAC - N, 5/21/2024]

16.12.14.4 DURATION: Permanent.
[16.12.14.4 NMAC - N, 5/21/2024]

16.12.14.5 EFFECTIVE DATE: May 21, 2024, unless a later date is cited at the end of a section.
[16.12.14.5 NMAC - N, 5/21/2024]

16.12.14.6 OBJECTIVE: To promote, preserve, and protect the health, safety, and welfare of the public and provide direction to licensees providing health care in aesthetic healthcare facilities.
[16.12.14.6 NMAC - N, 5/21/2024]

16.12.14.7 DEFINITIONS:

A. “Definitions beginning with “A”:

(1) “Aesthetic healthcare procedure” means a non-surgical procedure that stimulates, alters, or destroys living tissue, with the intent to enhance appearance of skin and improve the patient’s health and sense of wellness. This does not include procedures that affect only the non-living stratum corneum surface of the skin, does not affect living tissue and does not require the direction of a licensed independent practitioner as defined in these rules or in other accepted professional standards; and may include the practice of cosmetology or other licensed or unlicensed services not regulated by the New Mexico board of nursing. Examples of aesthetic healthcare procedures include, but are not limited to, the following forms of procedures or use of related devices:

(a) laser or energy-based skin and hair removal;

(b) intense pulsed light;

(c) ultrasonic devices;

(d) radio frequency devices;

(e) heating or cryolipolysis devices;

(f) electrical stimulation;

(g) micro-needling of any depth;

(h) injection of soft tissue fillers, polydioxanone (PDO) threads or neuromodulators;

(i) intravenous (IV) therapy;

(j) dermabrasion beneath the stratum corneum;

(k) medium-depth chemical peels (beneath the stratum corneum);

(l) hormone replacement therapy - insertion of hormone pellets into subcutaneous tissue.

(2) “APRN” means advanced practice registered nurse.

(3) “Aesthetic healthcare facility” means a business or other practice that provides aesthetic healthcare procedures to the general public.

B. “Definitions beginning with “B”: [RESERVED]

C. “Definitions beginning with “C”: **“Clinical supervisor”** which may also be referred to as a “clinical director”, means a licensed independent practitioner, regardless of employment title, who has appropriate knowledge, skills, and training to perform all procedures provided at the aesthetic healthcare facility they are practicing at, and who is responsible for supervising or directing all aspects of the facilities clinical practice, including protocols, healthcare procedures, policy, and clinical staff.

D. “Definitions beginning with “D”: **“Direct supervision”** means supervision by a licensed independent practitioner who is physically in the aesthetic healthcare facility, and immediately available to provide in-person clinical supervision and direction during the entire time of an aesthetic healthcare procedure.

E. “Definitions beginning with “E”: [RESERVED]

F. “Definitions beginning with “F”: [RESERVED]

G. “Definitions beginning with “G”: [RESERVED]

H. “Definitions beginning with “H”: [RESERVED]

I. “Definitions beginning with “I”: **“Indirect supervision”** means supervision by a licensed independent practitioner who is available outside of the aesthetic healthcare facility, but within a reasonably close distance and on-call, to immediately respond and provide verbal clinical supervision and direction, and travel to the aesthetic healthcare facility as needed.

J. “Definitions beginning with “J”: [RESERVED]

K. “Definitions beginning with “K”: [RESERVED]

L. “Definitions beginning with “L”:

(1) “Licensed independent practitioner” means an APRN or other licensed advanced practice health care practitioner who can independently perform aesthetic healthcare procedures and serve as a clinical supervisor.

(2) “licensee” means an individual licensed by the New Mexico board of nursing.

(3) “LPN” means licensed practical nurse.

M. “Definitions beginning with “M”: [RESERVED]

N. “Definitions beginning with “N”: [RESERVED]

O. “Definitions beginning with “O”: [RESERVED]

P. “Definitions beginning with “P”: [RESERVED]

Q. “Definitions beginning with “Q”: [RESERVED]

R. “Definitions beginning with “R”: **“RN”** means registered nurse.

S. “Definitions beginning with “S”: [RESERVED]

T. “Definitions beginning with “T”: **“Treatment plan”** means a healthcare record that provides the diagnosis and planned treatment of a patient.

U. “Definitions beginning with “U”: [RESERVED]
 V. “Definitions beginning with “V”: [RESERVED]
 W. “Definitions beginning with “W”: [RESERVED]
 X. “Definitions beginning with “X”: [RESERVED]
 Y. “Definitions beginning with “Y”: [RESERVED]
 Z. “Definitions beginning with “Z”: [RESERVED] [16.12.14.7 NMAC - N, 5/21/2024]

16.12.14.8 EDUCATION AND SCOPE OF PRACTICE:

A. Licensees, including APRNs, RNs and LPNs, who directly or collaboratively provide aesthetic healthcare procedures in non-traditional facilities not licensed by any state regulatory body specifically to provide aesthetic healthcare procedures are required to maintain any combination of education, clinical experience, certification, and supervision appropriate to ensure the ongoing safety of patients and other staff. Given the non-traditional nature of these facilities, licensees must be proactive in maintaining the knowledge and skills necessary to perform and assist with aesthetic healthcare procedures and work within their scope of practice.

B. Licensees may work in an aesthetic healthcare facility only if the facility employs a clinical supervisor who is an APRN or other licensed independent healthcare practitioner reasonably known to possess the appropriate education, training, and skills to safely perform all aesthetic healthcare procedures offered in the facility.

C. Licensees in any practice setting must have appropriate training in the specific treatments they provide, as required by board rule 16.12.2 NMAC. When assuming non-traditional specific functions and procedures which are beyond the licensee’s basic educational preparation, licensees are responsibility for obtaining reasonably appropriate knowledge, skills, and supervision to ensure

safe and competent performance of the function or procedure. Specific education and training components for aesthetic healthcare procedures shall include but are not limited to, a combination of practical and didactic instruction; national aesthetic certification; techniques and theories; identifying and addressing complications and adverse events; and charting and record keeping.

D. Scope of practice for APRNs may include aesthetic healthcare procedures with the appropriate population foci, licensure, national APRN certification and education.

E. Scope of practice for RNs may include aesthetic healthcare procedures with the appropriate education and training only if delegated by, and under the indirect supervision of an APRN or other clinical supervisor.

F. Scope of practice for LPNs may include aesthetic healthcare procedures with the appropriate education and training, only if delegated by, and under the direct supervision of an APRN or other clinical supervisor. However, LPNs may not perform aesthetic injections. LPNs performing certain non-healthcare aesthetic procedures may be required to obtain additional licensure from the New Mexico board of barbers and cosmetologists. Independent healthcare decisions are not within the scope of practice for LPNs.

[16.12.14.8 NMAC - N, 5/21/2024]

16.12.14.9 CLINICAL SUPERVISOR:

A. An APRN may serve as a clinical supervisor in an aesthetic healthcare facility with the appropriate population foci, licensure, national APRN certification and education. An RN or LPN may not serve as a clinical supervisor in an aesthetic healthcare facility.

B. An APRN serving as a clinical supervisor is responsible for supervising all aesthetic healthcare procedures performed at the aesthetic healthcare facility, which may include but are not limited to the following:

(1) possesses the appropriate education, training, experience, competence, and ongoing education, to safely administer, delegate, and supervise each aesthetic healthcare procedure;

(2) accepts responsibility for the safety of the patients treated at the aesthetic healthcare facility;

(3) ensures that staff who perform or assist with aesthetic healthcare procedures are trained and qualified;

(4) ensures that necessary equipment and supplies, including those needed to address healthcare complications and emergencies, are readily available, maintained and safely stored; and

(5) develops or approves and implements written protocols for all aesthetic healthcare procedures performed at the aesthetic healthcare facility. The protocols must provide sufficient and specific details, including guidance on identifying and responding to adverse events, to assure that making independent healthcare decisions does not become the responsibility of individuals without the appropriate scope of practice to make such decisions.

[16.12.14.9 NMAC - N, 5/21/2024]

16.12.14.10 PATIENT CARE:

A. Licensees providing aesthetic healthcare procedures or related health care must establish a valid practitioner-patient relationship and are subject to all ethical, legal, and practical obligations of such relationship.

B. Prior to a licensee providing any aesthetic healthcare procedure, an APRN or other licensed independent practitioner must conduct an assessment in a face-to-face examination, determine a diagnosis and prescribe a treatment plan for the patient. The APRN or other licensed independent practitioner may never delegate the examination, diagnosis, or treatment plan.

(1) The initial examination must consist of a review of the patient’s health history, and a

physical examination that includes treatment sites, and the determination of a diagnosis.

(2) The treatment plan should ensure that the patient is a good candidate for each aesthetic healthcare procedure and must include instruction on doses, device settings, expected duration, and specific treatment sites.

C. Face-to-face examination by an APRN or other licensed independent healthcare providers is required for ongoing patients at least once every 12 months but is not required before each visit unless there is a change in the patient’s health status or treatment plan.

D. Telemedicine may be used by an APRN or other licensed independent healthcare providers for assessment and face-to-face examinations provided that such use complies with any applicable state and federal law and that the quality of the video examination does not adversely affect the face-to-face assessment or diagnosis.

E. Delegation of healthcare and non-healthcare duties to licensed or unlicensed individuals must be done with care and only when the licensee has ascertained that the scope of practice, education, training, and experience of the individual is appropriate and sufficient to provide adequate care to the patient. The delegating licensee must take into consideration that individuals with the same license may not have the same qualifications or competencies. Delegation of aesthetic healthcare procedures cannot be delegated by a licensee to any individual who is not licensed in a healthcare profession. [16.12.14.10 NMAC - N, 5/21/2024]

16.12.14.11 PATIENT RECORDS, CONFIDENTIALITY, AND ADVERTISING:

A. Every patient encounter in an aesthetic healthcare facility must generate a healthcare record.

B. Individuals receiving aesthetic healthcare procedures from licensees in an

aesthetic healthcare facility are considered patients and care must be provided to ensure confidentiality of patient information and healthcare records.

C. Use of patient information, including images, is subject to HIPAA and other legal protections, and use of such information must be authorized by the patient.

D. Advertising and marketing of aesthetic healthcare procedures is regulated and may not be deceptive, false, or misleading. Licensees must only use references to their active license and shall not represent to offer services that they do not hold an active license to provide.

E. Licensees working at an aesthetic healthcare facility who are aware of misuse of patient information or advertising have an obligation to protect patient confidentiality and take reasonable steps to address such issues with the clinical supervisor or other management. [16.12.14.11 NMAC - N, 5/21/2024]

HISTORY OF 16.12.14 NMAC: [RESERVED]

NURSING, BOARD OF

This is an amendment to 16.12.1 NMAC, Sections 7, 8, 10 and 12 effective 5/21/2024.

16.12.1.7 DEFINITIONS:

- ~~A. Definitions beginning with the letter A:~~
- ~~(1) “actually engaged in nursing”, employed, engaged, or holding a position which requires licensure or in which the maintenance of licensure as a nurse is expected;~~
- ~~(2) “administration of medications”, a process whereby a prescribed drug or biological agent is given to a patient/client by a person licensed or certified by the board to administer medications;~~
- ~~(3) “advanced practice registered nurse” (APRN),~~

~~a graduate level prepared registered nurse who has completed a program of study in a specialty area in an accredited nursing program, taken a certification examination in the same area, and been granted a license to practice as an advanced practice nurse with an expanded scope of practice; individuals are authorized to practice in the roles of certified nurse practitioner (CNP), certified registered nurse anesthetist (CRNA) and clinical nurse specialist (CNS);~~

~~(4) “affidavit”, a sworn written statement made to affirm a statement of fact;~~

~~(5) “anesthetics”, means a drug-induced loss of consciousness, otherwise known as general anesthesia, during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory support is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired. General anesthesia is used for those procedures when loss of consciousness is required for the safe and effective delivery of surgical services.~~

~~(6) “approval”, the review and acceptance of a specific activity;~~

~~(7) “approval agency”, agency, institution or organization with the authorization to award CE credit;~~

~~(8) “approved equivalent”, a program reviewed and accepted by the board of nursing as meeting necessary regulatory/statutory requirements;~~

~~(9) “assessment”, the review and interpretation by a licensed individual of specific data necessary to determine the patient/client’s care and treatment needs; (also see data collection);~~

~~(10) “assignment of nursing activity”, assignment of nursing activity~~

involves appointing or designating another licensed nurse or assistive personnel that is consistent with his/her scope of practice (licensed person) or role description (unlicensed person);

————— (11) ———— **“audit”**, an examination and verification of CE and practice documents.

B. Definitions beginning with the letter B:

————— (1) ———— **“basic nursing education”**, the scholastic route to initial licensure;

————— (2) ———— **“board”** means the New Mexico board of nursing.

C. Definitions beginning with the letter C:

————— (1) ———— **“certificate”** means a legal document granting permission to an unlicensed person to perform specific functions considered the practice of nursing;

————— (2) ———— **“certification re-activation”**, the process of reactivating a lapsed national advanced practice registered nurse certification program in the specialty area;

————— (3) ———— **“CEU”** is the abbreviation for continuing education unit;

————— (4) ———— **“CHT”** is the abbreviation for certified hemodialysis technician;

————— (5) ———— **“CMA”** is the abbreviation for certified medication aide;

————— (6) ———— **“client”** means any person domiciled, residing, or receiving care, service or treatment from a licensed nurse, licensed lactation care provider, or certified unlicensed assistive person. This includes but is not limited to patients, residents, or consumers;

————— (7) ———— **“collaboration”**, practice in conjunction with another health professional;

————— (8) ———— **“competency”**, competency in nursing is the ability to perform skillfully and proficiently the role of the licensee; the role encompasses essential knowledge, judgment, attitudes, values, skills and abilities,

which are varied in range and complexity; competency is a dynamic concept and is based on educational training, preparation, and expertise;

————— (9) ———— **“consultation”**, to communicate regularly to set goals and objectives and to review and document outcomes;

————— (10) ———— **“contact hour”** means the unit of measurement describing an approved and organized learning experience equivalent to 60 clock minutes;

————— (11) ———— **“continuing education”** means planned learning experiences beyond a basic nursing education program. These experiences are designed to promote the development of knowledge, skills and attitudes for the enhancement of nursing practice, thus improving health care to the public;

————— (12) ———— **“continuing education unit”** means 10 contact hours of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction;

————— (13) ———— **“coordinated licensure information system”** means an integrated process for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.

D. Definitions beginning with the letter D:

————— (1) ———— **“data collection”**, the process of obtaining information, material, fact or clinical observations which will be used in the assessment process; data collection is not limited to licensed individuals;

————— (2) ———— **“delegation”**, the transferring to a competent individual the authority to perform a selected nursing task in a selected situation. The nurse retains accountability of the delegation;

————— (3) ———— **“department of public safety”**, the New Mexico department of public safety or other state’s department of public safety;

————— (4) ———— **“direct supervision for graduate permit holders”**, at a minimum, the person responsible for the direct supervision must be in the facility or on the unit with the graduate permit holder observing, directing and evaluating the performance of the permit holder; the supervisor must not be engaged in other activities that would prevent them from providing direct supervision.

E. Definitions beginning with the letter E:

————— (1) ———— **“educational institution”**, refers to an institution within the educational system which is organized and accredited for teaching and study (university, high school, post-secondary, approved area vocational institution);

————— (2) ———— **“eligible for graduation”**, individual who has met all the requirements of an educational program;

————— (3) ———— **“expedited license”** is a one-year provisional license that confers the same rights, privileges and responsibilities as regular licenses issued by the board.

————— **F. Definitions beginning with the letter F: “final transcript”**, an official record of course work and grades, issued by a school, which indicates date of program completion and certificate or degree awarded.

G. Definitions beginning with the letter G:

————— (1) ———— **“generally recognized organization”**, an association of nurses with common goals and concerns expressed through structured by laws. Rules and regulations, and whose recognition derives from both the profession and the public;

————— (2) ———— **“good standing”** means a license or registration is active and not expired, suspended, revoked, surrendered, conditioned, or otherwise in a status that in any manner restricts the activity of a licensee or registrant under the authority of the license or registration.

H. Definitions

beginning with the letter H: “health care work force data collection”, an electronic survey, designed to be completed by applicants for licensure or renewal, which includes questions regarding a core essential data set.

I. Definitions

beginning with the letter I:

(1) **“inactive list”**, compilation of those licenses that are in good standing but not current;

(2) **“initial license”**, the process of achieving the legal privilege to practice within a professional category upon the completion of all educational requirements and the successful writing of the national licensing examination;

(3)

“institution of higher education”, college or university.

J. Definitions

beginning with the letter J:

“jurisdiction”, the licensure or regulatory authoritative body for nursing within a specific geographic area for which there is endorsement in New Mexico.

K. Definitions

beginning with the letter K: [RESERVED]

L. Definitions

beginning with the letter L:

(1) **“lapsed status”**, a license which was not renewed by the expiration date on the license;

(2) **“legal guardian”**, a person lawfully invested with the power, and charged with the duty, of taking care of the person and managing the property and rights of another person who is considered incapable of administering his own affairs;

(3) **“letter of authorization”**, a document issued by the board which authorizes an individual to practice nursing in New Mexico under the auspices of an approved preceptorship for an advanced nursing expanded scope of practice prescriptive authority or for an advanced practice nurse from a compact state;

(4) **“license”**

means a legal document granting an individual the privilege and authority to engage in practice of an occupation or profession;

(5) **“licensure period”** means the length of time for which a license or certificate is valid. The initial (first) licensure period it is from the date of initial license or certificate issuance to the day the license or certificate expires. For subsequent licensure periods it is the day after the previous licensure period ended to the end next license or certificate expiration date.

M. Definitions

beginning with the letter M:

(1) “medical emergency”, a situation resulting from a disaster in which the number of persons requiring nursing care exceeds the availability of New Mexico registered nurses or licensed practical nurses;

(2) **“monitoring system”**, a mechanism whereby programs may be approved for CE hours within a geographic area;

(3)

“multistate/compact license” means a license granted through New Mexico’s participation in the nurse licensure compact that grants the licensee the legal authority to practice in all party states of the nurse licensure compact.

(4) **“must”**, a requirement.

N. Definitions

beginning with the letter N:

(1) **“national licensing examination”**, examination for licensure as provided by the national council of state boards of nursing, inc.;

(2) **“National practitioner data bank”** means the database operated by the U.S. department of health and human services that contains medical malpractice payment and adverse action reports on health care professionals;

(3)

“nationwide criminal history record”, information concerning a person’s arrests, indictments or

other formal criminal charges and any dispositions arising there from, including convictions, dismissals, acquittals, sentencing and correctional supervision, collected by criminal justice agencies and stored in the computerized databases of the federal bureau of investigation, the national law enforcement telecommunications systems, the department of public safety or the repositories of criminal history information of other states;

(4)

“nationwide criminal history screening”, a criminal history background investigation of an applicant for licensure by examination or endorsement through the use of fingerprints reviewed by the department of public safety and submitted to the federal bureau of investigation, resulting in the generation of a nationwide criminal history record for that applicant.

O. Definitions

beginning with the letter O: [RESERVED]

P. Definitions

beginning with the letter P:

(1) **“permit-to-practice for GCNSs”**, a document conferring the privilege to practice as a graduate clinical nurse specialist, at a specific place of employment, under the direct supervision of a licensed CNS, CNP or physician; such permits will carry set expiration dates, are not renewable and are not transferable;

(2) **“permit-to-practice for GNs and GPNs”**, a document conferring the privilege to practice nursing at a specific place of employment, under direct supervision of a RN only; such permits will carry set expiration dates, are not renewable or transferable;

(3) **“permit-to-practice for GNPs”**, a document conferring the privilege to practice as a graduate nurse practitioner, at a specific place of employment, under the direct supervision of a physician or a certified nurse practitioner; direct supervision of a physician, licensed CNP or CNS is required for prescription writing; such permit will carry set expiration dates, are not renewable and are not transferable;

(4) **“permit-to-practice for GRNAs”**, a document conferring the privilege to administer anesthesia to any person, as a GRNA, at a specific place of employment, functioning in an interdependent role under the direction of and in collaboration with a licensed physician, osteopathic physician, dentist or podiatrist licensed in New Mexico; such permits will carry set expiration dates, and are not renewable or transferable;

(5) **“post-graduate program”**, any specialized knowledge and skills sought after completion of a basic nursing educational program which does not necessarily lead to an advanced degree;

(6) **“preceptor”**, an individual at or above the level of licensure that an assigned student is seeking, who may serve as a teacher, mentor, role model or supervisor in a clinical setting;

(7) **“prescriptive authority”**, the power to determine the need for drugs, immunizing agents or devices; selecting the remedy and writing a prescription;

(8) **“private practice”**, employment status of an individual nurse who is self-employed.

(9) **“procedural sedation”**, a technique of administering sedatives or dissociative agents with or without analgesics to induce a state that allows the patient to tolerate unpleasant procedures while maintaining cardio-respiratory functions.

Q. Definitions beginning with the letter Q: {RESERVED}

R. Definitions beginning with the letter R:

(1) **“reactivation”**, the process of making current a license which has been in abeyance as a result of failure to comply with the necessary renewal requirements; this process does not involve board action at any juncture;

(2) **“recognized national or state**

institutions/organizations”, institutions and organizations recognized as providers of CE for nurses;

(3) **“refresher course”**, a formal program that has both didactic and clinical components designed to prepare a nurse who has been out of practice to re-enter the profession;

(4) **“reinstatement”**, the process whereby a license which has been subject to revocation or suspension, is returned to its former status by individual board action; this process always involves board action, and requires filing of a form and payment of the reinstatement fee;

(5) **“relicensure”**, the process of renewal, reactivation or reinstatement of a New Mexico nursing license.

S. Definitions beginning with the letter S:

(1) **“shall”**, mandatory; a requirement;

(2) **“should”**, a suggestion or recommendation; not a requirement;

(3) **“sponsor/provider”**, any person, organization, agency, or institution which organizes, develops, implements, and evaluates a CE activity;

(4) **“state approved program”**, a basic nursing education program approved or accredited by a state board of nursing or a nationally recognized nursing education accreditation body;

(5) **“supervision/direction”**, initial verification of a person’s knowledge and skills in the performance of a specific function or activity followed by periodic observation, direction and evaluation of that person’s knowledge and skills as related to the specific functions or activity;

(6) **“surrogate”**, an individual, other than a patient’s agent or guardian, authorized under the uniform health-care decisions act to make a health-care decision for the patient.

T. Definitions beginning with the letter T:

“temporary license”, a non-renewable, non-transferable document indicating a legal privilege to practice as a RN, LPN, CNP, CNS or CRNA, on a conditional basis for a specific period of time.

U. Definitions beginning with the letter U: {RESERVED}

V. Definitions beginning with the letter V: “valid practitioner-patient relationship” means a professional relationship between the practitioner and the patient for the purpose of maintaining the patient’s well-being. At minimum, this relationship is an interactive encounter between the practitioner and patient involving an appropriate history and physical or mental examination, ordering labs or diagnostic tests sufficient to make a diagnosis and providing, prescribing or recommending treatment, or referring to other health care providers. A patient record must be generated by the encounter.

W. Definitions beginning with the letter W: {RESERVED}

X. Definitions beginning with the letter X: {RESERVED}

Y. Definitions beginning with the letter Y: {RESERVED}

Z. Definitions beginning with the letter Z: {RESERVED}

A. Definitions beginning with the letter A:

(1) **“administration of medications”**, means a process whereby a prescribed drug or biological agent is given to a patient/client by a person licensed or certified by the board to administer medications;

(2) **“advanced practice registered nurse”**, (APRN), means the practice of professional registered nursing by a registered nurse who has been prepared through additional formal education as provided in Sections 61-3-23.2 through 61-3-23.4 NMSA 1978 to function beyond the scope of practice of professional registered nursing,

including certified nurse practitioners, certified registered nurse anesthetists and clinical nurse specialists;

(3)

“anesthetics”, means a substance that causes entire or partial loss of the feeling of pain, temperature, or other sensations with or without the loss of consciousness to induce a state of anesthesia. Anesthetics have no reversal agents and may impair ventilatory and cardiovascular function. This definition does not apply to local or topical anesthetics.

B. Definitions

beginning with the letter B:

“board” means the New Mexico board of nursing.

C. Definitions

beginning with the letter C:

(1)

“certificate”, means a legal document granting permission to an unlicensed person to perform specific functions considered the practice of nursing;

(2)

“certificate of completion”, means a piece of paper or diploma awarded after the completion of an educational or vocational training. A certificate of attendance or completion does not convey mastery and is often followed by clinical demonstration to confirm knowledge transfer; the presence of a certificate alone does not mean certification or certified.

(3)

“Certification”, means approving a professional for their eligibility for a role by an authority; it is evidence of mastery of knowledge and skills, such as national standards, by passing an exam or meeting industry standards; it requires ongoing continuing education and demonstration of competence in the specialty field; a licensee with a certification can be said to be certified.

(4) **“CEU”**,

is the abbreviation for continuing education unit;

(5) **“CHT”**,

is the abbreviation for certified hemodialysis technician;

(6) **“CMA”**,

is the abbreviation for certified medication aide;

(7) **“client”**,

means any person domiciled, residing, or receiving care, service or treatment from a licensed nurse, licensed lactation care provider, or certified unlicensed assistive person. This includes but is not limited to patients, residents, or consumers;

(8)

“competency”, competency in nursing is the ability to perform skillfully and proficiently the role of the licensee; the role encompasses essential knowledge, judgment, attitudes, values, skills and abilities, which are varied in range and complexity; competency is a dynamic concept and is based on educational training, preparation, and expertise;

(9)

“contact hour”, means the unit of measurement describing an approved and organized learning experience equivalent to 60 clock minutes;

(10)

“continuing education”, means planned learning experiences beyond a basic nursing education program. These experiences are designed to promote the development of knowledge, skills and attitudes for the enhancement of nursing practice, thus improving health care to the public;

(11)

“continuing education unit”, means 10 contact hours of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction;

(12)

“coordinated licensure information system”, means an integrated process for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.

D. Definitions

beginning with the letter D:

“delegation”, means the act of transferring to a competent individual the authority to perform a selected nursing task in a selected situation. The nurse retains accountability of the delegation.

E. Definitions

beginning with the letter E:

(1)

“educational institution”, means an institution within the educational system which is organized and accredited for teaching and study (university, high school, post-secondary, approved area vocational institution);

(2) **“engaged**

in nursing”, means being employed, engaged, or holding a position which requires licensure or in which the maintenance of licensure as a nurse is expected;

(3) **“expedited**

license”, whether by examination, endorsement, credential or reciprocity, means a license issued to a person in this state based on licensure in another state or territory of the United States, the District of Columbia or a foreign country, as applicable, pursuant to the Uniform Licensing Act and the Nursing Practice Act.

F. Definitions

beginning with the letter F:

[RESERVED]

G. Definitions

beginning with the letter G:

(1) **“good**

standing”, means a license or registration is active and not expired, suspended, revoked, surrendered, conditioned, or otherwise in a status that in any manner restricts the activity of a licensee or registrant under the authority of the license or registration.

(2)

“guardian”, means someone other than a patient, including an agent, surrogate or guardian, authorized to make health-care decisions for the patient under the uniform health-care decisions act or other applicable law;

H. Definitions

beginning with the letter H:

[RESERVED]

I. Definitions

beginning with the letter I: “initial

license”, means the first regular license received from a board for a person who has not been previously licensed;

J. Definitions

beginning with the letter J:

“jurisdiction”, the licensure or regulatory authoritative body for

nursing within a specific geographic area for which there is endorsement in New Mexico.

K. Definitions

beginning with the letter K:
[RESERVED]

L. Definitions

beginning with the letter L:

(1) **“lapsed status”**, means a license which was not renewed by the expiration date on the license;

(2) **“letter of authorization”**, a document issued by the board which authorizes an individual to practice nursing in New Mexico under the auspices of an approved preceptorship for an advanced nursing expanded scope of practice prescriptive authority or for an advanced practice nurse from a compact state;

(3) **“license”**, means a legal document granting permission to a person to perform specific functions considered the practice of nursing or other activity regulated by the board, which may also include a certificate or other type of authorization.

M. Definitions

beginning with the letter M:

“monitoring system”, a mechanism whereby programs may be approved for CE hours within a geographic area.

N. Definitions

beginning with the letter N:

(1) **“national licensing examination”**, means the examination for licensure as provided by the national council of state boards of nursing, inc.;

(2) **“National practitioner data bank”**, means the database operated by the U.S. department of health and human services that contains medical malpractice payment and adverse action reports on health care professionals;

O. Definitions

beginning with the letter O:
[RESERVED]

P. Definitions

beginning with the letter P:

(1) **“permit-to-practice”**, a document conferring

the privilege to practice at a specific place of employment, under the direct supervision of a licensed RN, APRN, physician, osteopathic physician, dentist, or podiatrist; such permits will carry set expiration dates, are not renewable and are not transferable;

(2)

“preceptor”, an individual at or above the level of licensure that an assigned student is seeking, who may serve as a teacher, mentor, role model or supervisor in a clinical setting;

(3)

“prescriptive authority”, means the authority under state and federal law to prescribe, administer, monitor or modify dangerous drug therapy.

O. Definitions

beginning with the letter O:
[RESERVED]

R. Definitions

beginning with the letter R:

(1)

“reactivation”, means the process of making active an existing license which has lapsed or is otherwise inactive;

(2) **“refresher**

course”, means a formal program that has both didactic and clinical components designed to prepare a nurse who has been out of practice to re-enter the profession;

(3)

“reinstatement”, means the process whereby a license which has been subject to revocation or suspension, is returned to its former status by board action, which may require filing of a form and payment of a reinstatement fee;

(4)

“relicensure”, the process of renewal, reactivation or reinstatement of a New Mexico nursing license.

S. Definitions

beginning with the letter S:

(1)

“sedation”, means the administration of medications to produce various levels of calmness, relaxation, or sleep. The various levels include:

(a)

“Minimum sedation/anxiolysis.” means a drug-induced state during which patients respond normally to verbal commands, may have impaired

cognitive function or coordination but respiratory and cardiovascular functions remain stable:

(b)

“Moderate sedation/analgesia (also known as conscious sedation),” means a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained;

(i) **“deep sedation,”** means a drug-induced depression of consciousness, during which a patient cannot be easily aroused but responds purposefully, following repeated or painful stimulation. While cardiovascular function is usually maintained, the ability to independently maintain respiratory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate resulting in intubation and mechanical ventilation. Reflex withdrawal from a painful stimulus is *not* considered a *purposeful* response;

(ii) **“general anesthesia,”** means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. General anesthesia affects the patient’s ability to maintain an adequate airway and respiratory function, and may impair cardiovascular function;

(iii) **“palliative sedation,”** means the monitored use of medications at end of life intended to provide relief of intolerable and refractory symptoms but not to intentionally hasten death. A refractory symptom is one that cannot be controlled in a tolerable time frame despite use of therapies and seems unlikely to be controlled by further therapies without excessive or intolerable acute or chronic side effects/complications.

(2)
“successful completion”, means the completion of all required courses with a passing letter grade of “C” or higher, course with pass or fail must have a “pass” for successful completion;

(3)
“supervision/direction”, means initial verification of a person’s knowledge and skills in the performance of a specific function or activity followed by periodic observation, direction and evaluation of that person’s knowledge and skills as related to the specific functions or activity.

T. Definitions
beginning with the letter T:
“temporary license”, a non-renewable, non-transferable document indicating a legal privilege to practice as a RN, LPN, CNP, CNS or CRNA, on a conditional basis for a specific period of time.

U. Definitions
beginning with the letter U:
(1)
“unencumbered”, means the absence of a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board;

(2)
“unlicensed assistive personnel”, (UAP) means unlicensed support staff that registered nurse may appropriately delegate tasks to, such as a nursing assistant, nurse technician, or medical assistant.

V. Definitions
beginning with the letter V: “valid practitioner-patient relationship”, means a professional relationship between the practitioner and the patient for the purpose of maintaining the patient’s well-being. At minimum, this relationship is an interactive encounter between the practitioner and patient involving an appropriate history and physical or mental examination, ordering labs or diagnostic tests sufficient to make a diagnosis and providing, prescribing or recommending treatment, or referring to other health care providers. A patient record must be generated by the encounter.

W. Definitions
beginning with the letter W:
[RESERVED]

X. Definitions
beginning with the letter X:
[RESERVED]

Y. Definitions
beginning with the letter Y:
[RESERVED]

Z. Definitions
beginning with the letter Z:
[RESERVED]
 [16.12.1.7 NMAC - Rp, 16.12.1.7 NMAC, 12/13/2022, A; 5/21/2024]

16.12.1.8 GLOSSARY OF ABBREVIATIONS:

A. APRN: Advanced practice registered nurse (i.e. CNP, CNS, CRNA);

B. CE: Continuing education;

C. CHT: Certified hemodialysis technician;

D. CMA: Certified medication aide;

[E] E. CNP: Certified nurse practitioner;

[D] F. CNS: Clinical nurse specialist;

[E] G. COA: Council on accreditation of nurse anesthesia educational program;

[F] H. CRNA: Certified registered nurse anesthetist;

[G] I. DNP: Doctor of nursing practice;

[H] J. GCNS: Graduate clinical nurse specialist;

[F] K. GN: Graduate nurse;

[J] L. GNP: Graduate nurse practitioner;

[K] M. GPN: Graduate practical nurse;

[E] N. GRNA: Graduate registered nurse anesthetist;

[M] O. LPN: Licensed practical nurse;

[N] P. MN: Master’s in nursing;

[O] Q. MSN: Master of science in nursing;

[P] R. NBCRNA: National board on certification & recertification of nurse anesthetists;

[Q] S. NCLEX-RN/PN: National council licensing examination - RN/PN;

[R] T. NCSBN: National council of state boards of nursing;

[S] U. NLNAC: National league for nursing accrediting commission;

[F] V. NMSA: New Mexico statutes annotated;

[H] W. NPA: Nursing Practice Act;

[V] X. RN: Registered nurse;

[W] Y. ULA: Uniform Licensing Act.
 [16.12.1.8 NMAC - N, 12/13/2022, A; 5/21/2024]

16.12.1.10 BOARD ADMINISTRATION:

A. Organization:
(1) The board

shall annually elect a chair, vice-chair, and secretary. The term of office begins immediately after the conclusion of the meeting at which the election occurred unless a later date is indicated in the election.

(2) All members of the board, including public members, are eligible to serve as an officer of the board.

B. Executive director:
(1) The board shall hire and employ a qualified registered nurse, who shall not be a member of the board, to serve as executive director.

(2) The executive director shall be accountable to the board for the administration and management of the board office and staff, including but not limited to the board’s fiscal operations, records, and management of personnel (including hiring, supervising, and [firing] terminating staff).

(3) The executive director, or designee, shall represent the board to the public.

(4) As provided in the Nursing Practice Act, the board shall not delegate to the executive director the power to grant, deny or withdraw approval for schools of nursing or to revoke, suspend or withhold any license authorized by the Nursing Practice Act.

C. Board meetings:

(1) The board shall meet at least once every three months.

(2) The board shall annually review and adopt an open meetings resolution, consistent with the Open Meetings Act, Sections 10-15-1 to 10-15-4 NMSA 1978.

(3) The board shall approve a schedule of regular meeting dates at a regular meeting prior to the beginning of the next calendar or fiscal year. The board shall publish this schedule in its newsletter and on its website.

(4) Individual board members may attend meetings through telephonic or similar communications equipment when it is difficult or impossible for the [person] member to be physically present. Whenever attending a meeting in such a manner, board members must fully comply with all requirements set by the Open Meetings Act and the board's annual open meetings resolution.

D. Signatures: A record, order, contract, or other document requiring a signature from an authorized person on behalf of the board may be signed by the chair, vice-chair, or executive director. [16.12.1.10 NMAC - Rp, 16.12.1.9 NMAC, 12/13/2022, A; 05/07/2004]

16.12.1.12 COMMITTEES:

A. Advisory function: To assist and advise the board in its functions and mission, the board may appoint and utilize, at its discretion, advisory committees consisting of at least one board member and at least two members that are [expert] experts in the pertinent field [of relevant health care] to assist in the performance of the board's duties pursuant to authority under Section 61-3-10 NMSA 1978 of the Nursing Practice Act. Any committee serving the board shall have a purely advisory role and shall not have any policymaking authority of any kind.

B. Membership: Except as otherwise provided in the board's rules, the board has absolute discretion with respect to the number

of individuals who may serve on a committee, provided that in no case shall a quorum of the members of the board serve on a committee.

C. Duties and responsibilities: The board shall annually, at an open meeting, review the duties and responsibilities of each committee and subsequently provide each committee with written objectives to satisfy within the following year.

D. Except as otherwise provided in the board's statute or rules membership is conditioned on the following:

(1) Committee members [may] serve [two-year] terms that are no more than two-years each.

(2) The board may reappoint [currently-serving] committee members to serve additional terms.

(3) [An individual's service] Service on a committee is voluntary, and the [individual] member may resign from the committee at any time upon written notification to the executive director.

(4) Advisory committee members may be reimbursed as provided in the per diem and Mileage Act [provided that mileage may only be paid when there is a total of 60 miles or more traveled] at the approval of the director.

(5) Termination of membership:

(a) Members of committees serve at the pleasure of the board, and the board may remove a member from a committee at any board meeting.

(b) The executive director [shall] may automatically terminate an individual's membership on a committee if the [individual] member fails to attend three consecutive committee meetings.

E. Any committee shall, if ordered by the executive director or the board, meet virtually rather than in person as a means of achieving greater efficiency and productivity.

F. [Specific] Standing committees: [Nursing practice advisory committee. The board may appoint a minimum of a seven-member advisory committee to assist the board in regulating the practice of nursing. The committee shall assist and advise the board in the review of issues related to the practice of nursing.] Committees established by rule shall not require reauthorization. Any committee created outside of the rules requires reauthorization of the board each fiscal year.

[16.12.1.12 NMAC - Rp, 16.12.1.11 NMAC, 12/13/2022, A; 05/21/2024]

NURSING, BOARD OF

This is an amendment to 16.12.2 NMAC, Sections 9, 11 through 15 effective 5/21/2024.

16.12.2.9 LICENSURE REQUIREMENTS FOR REGISTERED AND PRACTICAL NURSES:

Licensure with the New Mexico board of nursing is mandatory and is the responsibility of the individual nurse, pursuant to the Nursing Practice Act. For states who are a part of the nurse licensure compact, licensure in New Mexico can only be issued to applicants who declare New Mexico as their primary state of residence.

A. Prerequisites for licensure of RNs and LPNs by examination in New Mexico.

(1) Completion of and eligible for graduation from a board approved course of study for the preparation of registered nurses or practical nurses, or an acceptable level of education as determined by the board or graduation from a program which is equivalent to an approved program of nursing in the United States:

(a) minimum acceptable level of education for LPN licensure by examination and for candidates enrolled in RN programs with LPN programs embedded include:

(i) minimum of 500 hours, 250 didactic,

250 (clinical and lab) which includes the minimum as follows; OB/Peds - 30 hours didactic/40 hours clinical; medical-surgical - 60 hours didactic/ 90 hours clinical; pharmacology - 45 hours didactic; and psych - 60 contact hours;

LPN transition course approved by the board.

request to New Mexico board of nursing for LPN licensure examination by acceptable level of education from an approved program of nursing that does not offer a PN program ~~should~~ must include:

transcripts with a minimum of 500 hours in nursing education and proof of successful completion of a board approved LPN transition course;

written communication from the director of the approved nursing program requesting permission for nursing students to test for LPN licensure.

certification of eligibility for LPN licensure examination by students enrolled in a nursing program with a LPN track will need to include:

transcripts with a minimum of 500 hours in nursing education and a board approved LPN transition course passed successfully on completion of board approved LPN transition course;

written communication from the director of the approved nursing program requesting permission for nursing students to test for LPN licensure.

(2) RN and PN graduates from non-U.S. nursing programs:

shall have an evaluation of their nursing education credentials sent to the ~~[New Mexico]~~ board directly from a board recognized educational credentialing agency;

the credentialing agency must be a member of a national credentialing

organization and must be monitored by an external committee of credentialing experts and nursing educators;

the credentialing agency must demonstrate the ability to accurately analyze academic and licensure credentials in terms of U.S. comparability, with course-by-course analysis of nursing academic records;

the credentialing agency must manage the translation of original documents into English;

the credentialing agency will inform the board of nursing in the event of fraudulent documents;

the credentials report must state the language of nursing instruction and language of textbooks for nursing education; and

the credentialing agency must only use original source documents in evaluating nursing education and must compare the foreign education to the U.S. education standards.

the executive director and the board reserve the right to not recognize an educational credentialing agency that does not meet these requirements.

Puerto Rico applicants who are graduates of a program accredited by a US national nursing accreditation organization registered nurse program are eligible to sit national council licensure examination for registered nurses (NCLEX-RN) exam;

successful completion of ~~[any one of the]~~ a board approved English competency examinations with the following conditions:

a minimum score of 540 (207 on computerized version) on the test of English as a foreign language (TOEFL) or test of English as a foreign language - internet based test (TOEFL IBT) minimal passing standard of 84 overall, with a minimum speaking score of 26, a minimum score of 725 on

test of English for international communication test of English for international communication (TOEIC) or a minimum score of 6.5 overall with a 7.0 on the spoken portion on the academic version of international English language testing system international English language testing system (IELTS); OET Grade C+ for reading, writing, and listening, OET Grade B for speaking on the occupational English test (OET); a minimum score of 59 or higher and a CEFR score of B2 or higher on the Michigan English test (MET) score report;

completion of a nursing program given in English in another country; a passing score on a nursing licensure examination which is given in English.

Completion of the required board of nursing application for licensure by examination according to instructions and including the required fee.

Completion of NCLEX application for the testing service according to instructions.

Graduates who have compact state addresses or who declare another compact state as their state of residence on their application will have their application for examination ~~[and appropriate fees returned to them]~~ denied.

The board shall not approve an application for a license until the applicant provides the following information:

demographics, including race, ethnicity and primary and other languages spoken;

practice status, including but not limited to: active practices in New Mexico and other locations; practice type, practice settings, such as hospital, clinic or other clinical settings;

education, training and primary and secondary specialties;

(d) average hours worked per week and the average number of weeks worked per year in the licensed profession;

(e) percentage of practice engaged in direct patient care and in other activities, such as teaching, research and administration in the licensed profession;

(f) practice plans for the next five years, including retiring from the health care profession, moving out of state or changing health care work hours.

B. Nationwide criminal background check. Applicants for licensure in New Mexico are subject to a state and national criminal background check at their cost.

(1) Applicants will follow the criminal background check process required by the New Mexico department of public safety or its agent.

(2) Applications for exam or endorsement will not be processed without results of a criminal background check.

(3) If the criminal background check reveals a felony or violation of the Nursing Practice Act, the applicant/licensee will be notified to submit copies of legal documents and other related information to be reviewed by the executive director, as delegated by the board, or the board [that will] to make the determination if the applicant is eligible for licensure or if disciplinary action will be taken.

C. Complete application for licensure by examination, certification of eligibility for graduation completed by nursing education program or official transcript, and an approved criminal background check must be received by the board office prior to being granted permission to take the national licensing examination (NCLEX). Certification of eligibility for graduation completed by nursing education program or official transcript, indicating date requirements for graduation from the nursing program were met and certificate or degree awarded must be

received in the board office directly from the registrar's office.

D. Results of the examination shall be reported to the individual applicant within [~~four~~] two weeks following the applicant's examination date. Examination results shall be released to the applicant's nursing program and boards of nursing unless otherwise instructed, in writing, by applicant.

E. An initial license shall be valid until the last day of the applicants' birth month after the first anniversary of the initial license.

F. Applications containing fraudulent or misrepresented information could be the basis for denial or revocation of licensure.

G. If the licensure process is not completed, the application becomes null and void [~~six~~] 12 months after date of the application being received at the board.

H. Permits-to-practice may be issued for employment at a specific institution(s) in New Mexico. Permits-to-practice can be emailed, faxed or mailed directly to the New Mexico employing institution(s).

(1) To be eligible for a permit-to-practice, the applicant must:

(a) complete the application process to take the NCLEX within 12 weeks of graduation; the permit to practice for RN and PN graduates of U.S. schools may be issued for a period not to exceed six months from the receipt date of application; permits to practice may not be issued by the New Mexico board of nursing for employment at specific institution(s) in compact states; permits-to-practice will not be issued for applicants who declare residency in other compact states;

(b) RN and PN graduates from non-U.S. nursing programs may be issued a permit-to-practice in New Mexico for a period not to exceed six months from the date of application when requirements are met according to Paragraph (2) of Subsection A of 16.12.2.9 NMAC;

(c) assure that prospective New Mexico employer(s) submit a letter of intent to employ to the board office, on agency letterhead, indicating the name of a specific New Mexico employer and name and nursing license number of the RN who is responsible for assuring direct supervision by a registered nurse;

(d) have an approved criminal background check results.

(2) Permits-to-practice cannot be transferred or renewed.

(3) Written notification from employer must be made to the board office in case of lost or stolen permit-to-practice.

(4) Permits-to-practice shall be valid until the examination results are disseminated but shall not exceed the expiration date on the permit.

(a) Applicants who fail the first or any subsequent examination shall not practice nursing until such time as the applicant passes a nursing licensing examination.

(b) Any applicant who is eligible to write the professional examination but elects to write the practical examination on the basis of practical nursing education equivalency and fails the practical examination shall not be granted graduate nurse status when the applicant applies to write the professional registered nurse examination.

(c) Any applicant who fails to appear for the first examination for which applicant is eligible shall not practice nursing until such time as the applicant passes a licensing examination.

(5) Candidates who were not successful on the *national licensure examination* will receive the results as soon as they are available.

(6) Applicants who hold a graduate permit-to-practice and do not become licensed prior to the expiration date of the

permit may not continue to practice as a graduate nurse or graduate practical nurse.

I. Direct supervision for graduate permit holders:

(1) at a minimum, the RN responsible for direct supervision must be in the facility or on the unit with the graduate;

(2) the RN is responsible for observing, directing and evaluating the performance of the graduate;

(3) the RN supervisor must not be engaged in other activities that would prevent them from providing direct supervision.

J. NCLEX attempt limits:

(1) Applicants educated in the United States may take the examination a maximum of five times within three years of graduation from basic nursing education.

(2) Applicants educated outside of the United States may take the examination a maximum of five times within three years of their initial New Mexico application for licensure through examination.

(a) Applicants educated outside of the United States may apply for initial licensure regardless of date of completion of basic nursing education [if] with verification of licensure as a nurse in the within the last four years.

(b) Applicants educated outside of the United States may apply for initial licensure within four years of completion of basic nursing education if there is no verification of licensure within the last four years.

(3) The applicant must wait 45 days to retest after failing the exam.

(4) Applicants for re-examination must meet all NCLEX requirements for retaking the examination.

(5) Education requirements must be met as specified and do not provide or allow for any test out options.

K. National council licensing examination:

(1) Applicants for licensure as registered nurses shall be required to pass the NCLEX-RN.

(2) Applicants for licensure as licensed practical nurses shall be required to pass the NCLEX-PN.

(3) Applicants observed giving or receiving unauthorized assistance during the taking of the national licensing examination shall be referred to the board by a sworn complaint.

L. Expedited licensure for registered nurses and licensed practical nurses:

(1) An expedited license is a one-year provisional license that confers the same rights, privileges and responsibilities as regular licenses issued by a board. The board will issue an expedited license to a qualified applicant based on prior licensure in an eligible jurisdiction other than New Mexico upon an applicant's submission of a complete application containing all of the following:

(a) a completed and signed application form;

(b) proof of current licensure in an eligible jurisdiction;

(c) proof of good standing for the license held by the applicant in an eligible jurisdiction;

(d) submission of fingerprints and other information necessary for a state and national background check; and

(e) payment of the required application fee.

(2) An expedited license application shall not be deemed complete until the applicant has submitted, and the board's staff is in receipt of, all of the materials required by Paragraph (1) of Subsection L of 16.12.2.9 NMAC including documentation from third parties.

(3) Upon submission of a complete application, the board's staff shall process the application and issue the expedited license to the applicant within 30 days unless the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3-28 NMSA 1978.

(4) If the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3-28 NMSA 1978:

(a) the license may not be issued within 30 days of submission of the complete application;

(b) the matter of the applicant's application shall be submitted to the board for consideration and action at its next available regular meeting; and

(c) the board may vote to grant the application or refer the matter to its administrative prosecutor contemplating the ultimate denial of the application as provided by the board's rules.

(5) An expedited license is a single-state license not subject to the multistate compact: prior to renewal of license, the holder of the expedited license may apply to change the expedited license to a multistate license and must fulfill all the requirements of the nurse licensure compact, including completing another background check;

(6) **Renewal of licenses:**

(a) a licensee holding an expedited license may apply for license renewal beginning 60 days prior to expiration of the expedited license, as provided by the board's rules;

(b) upon renewal, an expedited license shall become a regular single-state license;

(c) if the licensee holding an expedited license was not required by the

licensee's original jurisdiction outside of New Mexico to pass the NCLEX for original licensure, the licensee shall be required to take and pass the NCLEX as a prerequisite to the renewal of the license. In such a case, the expedited license shall not be renewed unless the licensee passes the NCLEX.

(7) Eligible and ineligible jurisdictions:

(a) the board will accept expedited license applications on the basis of prior licensure in any jurisdiction within the United States except the following: Puerto Rico, on the grounds that this jurisdiction does not participate in the coordinated licensure system.

~~[(i) Michigan, on the grounds that this jurisdiction does not participate in the coordinated licensure system for the purposes of discipline; and~~

~~[(ii) Puerto Rico, on the grounds that this jurisdiction does not participate in the coordinated licensure system.]~~

(b) the board will accept expedited license applications on the basis of prior licensure in the following jurisdictions outside the United States: Canada.

M. Qualifications for licensure as a RN or LPN are pursuant to the Nursing Practice Act:

(1) LPN applicants initially licensed after July 1, 1969 must meet the educational requirements.

(2) Military personnel, licensed as LPNs by successful writing of the national licensing examination prior to July 1, 1977, may be licensed in New Mexico by endorsement providing their DD-214 shows the related civilian occupation to be "LPN".

(3) Continuing education (CE) is not required for initial licensure by endorsement. CE requirements must be met at the time of the first renewal. CE may be prorated to commensurate with the length of the renewal period.

(4)

Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

N. An initial license shall be valid until the last day of the applicants' birth month after the first anniversary of the initial license.

O. If the licensure process is not completed within one year after date application received by the board, the application becomes null and void.

P. In case of a medical emergency (as defined in these rules), nurses currently licensed to practice as a RN or LPN in a jurisdiction of the United States may practice in New Mexico without making application for a New Mexico license for a period not to exceed 30 days.

Q. Requirements for relicensure and reactivation. Applicants for relicensure and reactivation must meet CE requirements as stated in these rules, pursuant to the Nursing Practice Act Section 61-3-24 NMSA 1978. The CE may be prorated to commensurate with the length of the renewal period.

(1) Licensed nurses shall be required to complete the renewal process by the end of their renewal month every two years.

(2) A renewal notice shall be sent electronic notification to the licensee at least six weeks prior to the end of the renewal month.

(a) Renewal of license may be accepted no more than 60 days prior to the expiration date of the license.

(b) The board shall not approve an application for a renewal of license until the applicant provides the following information:

(i) demographics, including race, ethnicity and primary and other languages spoken;

(ii) practice status, including but not limited to: active practices in New Mexico and other locations; practice

type, practice settings, such as hospital, clinic or other clinical settings;

(iii) education, training and primary and secondary specialties;

(iv) average hours worked per week and the average number of weeks worked per year in the licensed profession;

(v) percentage of practice engaged in direct patient care and in other activities, such as teaching, research and administration in the licensed profession;

(vi) practice plans for the next five years, including retiring from the health care profession, moving out of state or changing health care work hours.

(c) Failure to receive notice of pending renewal shall not relieve the licensee of the responsibility of renewing the license by the expiration date.

(d) If the license is not renewed by the end of the renewal month, licensee does not hold a valid license and shall not practice nursing in New Mexico until the lapsed licensed has been reactivated.

(e) A reactivation fee will be charged when license has lapsed.

(f) Exception: if renewing, nurses who are mobilized for active duty are not required to renew their license while on active duty, other than training, during a military action. A copy of the mobilization orders must be submitted to the board office prior to expiration of the license. The license extension shall end one month after deployment is concluded. No reactivation fee will be charged when the license is renewed.

(3) 30 hours of approved CE must be accrued within the 24 months immediately preceding expiration of license. CE may be prorated to commensurate with the length of the renewal period.

(a) Certified nurse practitioners must submit a copy of valid APRN national certification.

(b) Certified registered nurse anesthetists must submit a copy of the recertification card issued by NBCRNA for renewal of the CRNA license.

(c) Clinical nurse specialist must submit a copy of valid APRN national certification.

(d) Exception: if renewing, nurses mobilized for military action are not required to meet the CE requirements while on active duty, other than training, during a military action. A copy of the mobilization order must be submitted along with the renewal application.

(4) Individuals who reside out-of-state who do not hold primary residence in a nurse licensure compact state, but wish to maintain a current, valid New Mexico license, must meet the same requirements for licensure as licensees residing within the state who have declared New Mexico as their primary residence.

(5) Penalty: failure of licensee to meet the CE requirement for licensure shall result in the license not being renewed, reinstated, or reactivated. When the CE requirement has been met, an application for licensure may be submitted for consideration.

(6) Licenses can be verified on the board website or www.nursys.com.

(7) Individuals who are reactivating a license which has been lapsed for four or more years must complete a refresher course that includes both a didactic and clinical component designed to prepare a nurse who has been out of practice to re-enter into practice.

(a) Applicants will follow the criminal background check process required by the New Mexico department of public safety or its agent and have a new criminal background check result approved.

(b) A temporary license will be issued not to exceed six months unless

the board of nursing approves an extension to allow the individual to complete the refresher course clinical component. If documentation is not received by the board verifying successful completion of the refresher course prior to the temporary license expiration date, the individual will not be allowed to practice nursing.

(c) Advanced practice nurses who are reactivating an advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is reflective of their specific advanced practice knowledge, skills and expertise. A temporary license will be issued not to exceed one year unless board of nursing approves an extension.

R. Reactivation/ reinstatement of a lapsed license must meet the requirements for re-licensure, to include a background check if lapsed for over 90 days, pursuant to the Nursing Practice Act and these rules. A reactivated or reinstated license shall be valid up to two years.

S. Inactive status. Licensee may request [her/his] their license be placed on inactive status during the renewal cycle only; however, the licensee may not function in a nursing capacity as a New Mexico licensed nurse until the license is reactivated.

T. The board will collect a standardized core essential data set as required in regulation for examinations and renewals which will be entered into the internal licensing database at the board of nursing. [16.12.2.9 NMAC - Rp, 16.12.2.10 NMAC, 12/13/2022, A; 5/21/2024]

16.12.2.11 STANDARDS OF NURSING PRACTICE:

A. The nurse shall maintain individual competence in nursing practice, recognizing, and accepting responsibility for individual actions and judgments.

(1) Competent nursing practice requires that the nurse have the knowledge and skills to practice nursing safely and

properly in accordance with [his/her] their licensure status and to perform specific functions or procedures required in [his/her] their particular area of practice. Competent nursing practice also requires that the nurse have the knowledge to recognize and respond to any complication(s) which may result from the function or procedure the nurse performs.

(2) To maintain the requisite knowledge and skills, the nurse shall engage in CE specific to [his/her] their particular area of practice.

(3) The nurse shall use individual competence as a criterion in accepting assigned responsibilities.

(4) The nurse contributes to the formulation, interpretation, implementation and evaluation of the objectives and policies to nursing practice within [his/her] their employing setting.

B. The nurse shall assign/delegate to licensed and unlicensed persons only those nursing actions which that person is prepared, qualified or licensed or certified to perform.

(1) The nurse is accountable for assessing the situation and is responsible for the decision to delegate or make the assignment.

(2) The delegating nurse is accountable for each activity delegated, for supervising the delegated function or activity, and for assessing the outcome of the delegated function or activity.

(3) The nurse may not delegate the specific functions of nursing assessment, evaluation and nursing judgment to non-licensed persons.

(4) Registered nurses engaged in school nursing practice may delegate medication administration, including emergency medication, to adults affiliated with school operations.

C. The nurse shall have knowledge of the laws and rules governing nursing and function within the legal boundaries of nursing practice.

(1) The nurse must report incompetent and unprofessional conduct to the appropriate authorities.

(2) The nurse must report violations of the Nursing Practice Act and administrative rules of the board of nursing to the board of nursing.

D. The nurse acts to safeguard the patient [patient] when [his] their care and safety are affected by incompetent, unethical, or illegal conduct of any person by reporting the conduct to the appropriate authorities.

E. The nurse shall recognize the dignity and rights of others regardless of social or economic status and personal attributes, shall conduct practice with respect for human dignity, unrestricted by considerations of age, race, religion, sex, sexual orientation, national origin, disability or nature of the patient/client's health problems.

F. The nurse safeguards the [individual's] patient's right to privacy by judiciously protecting information of a confidential nature, sharing only that information relevant to [his] their care.

G. The nurse shall identify herself/himself by name and licensure category and shall permit inspection of their license when requested.

H. Standards for professional registered nursing practice. Registered nurses practice in accordance with the definition of professional registered nursing in the NPA. Subsection J of Section 61-3-3 NMSA 1978.

(1) RNs may assume specific functions and perform specific procedures which are beyond basic nursing preparation for professional registered nursing Subsection J of Section 61-3-3 NMSA 1978 provided the knowledge and skills required to perform the function and procedure emanates from a recognized body of knowledge and practice of nursing, and the function or procedure is not prohibited by any law or statute:

(a) emerging functions and procedures that do not emanate from a nursing body of knowledge will require national certification from a recognized body to denote mastery and assess competency as the RN is recognized as being certified;

(b) certificates of course completion are not evidence of mastery nor evidence of competency.

(2) When assuming specific functions and performing specific procedures, which are beyond the nurse's basic educational preparation, the RN is responsible for obtaining the appropriate knowledge, skills and supervision to assure he/she can perform the function/procedure safely and competently:

(a) administration of medication for the purposes of [procedural] moderate sedation and analgesia requires particular attention;

(b) a nurse shall possess specialized nursing knowledge, judgment, skill and current clinical competence to manage the nursing care of the patient receiving [procedural] moderate sedation including:

(i) being currently trained with demonstrated proficiency in [ACLS or PALS;] age-appropriate advanced life support, including but not limited to: Advanced cardiac life support (ACLS), pediatric advanced life support (PALS), Neonatal resuscitation program (NRP);

(ii) knowledge of anatomy, physiology, pharmacology, cardiac arrhythmia recognition, oxygen delivery, respiratory physiology, transport and uptake and the use of an oxygen mask, bag-valve mask, oral airway, nasal airway adjunct, or the maintenance of a supraglottic airway, or endotracheal tube;

(iii) ability to recognize emergency situations and institute emergency procedures as appropriate to the patient condition and circumstance.

(c) To perform [procedural] moderate sedation a registered nurse:

(i) shall not have other responsibilities during or after the procedure that would compromise the nurse's ability to adequately monitor the patient during [procedural] moderate sedation/analgesia;

(ii) shall assess the physical setting for safe administration of medications for sedation and proceed only if the resources needed for reasonable anticipated emergencies are available;

(iii) shall ensure that a qualified airway specialist is [readily] immediately available during and after the procedure for respiratory emergencies. Immediately available meaning being present in the facility, in the vicinity of the care being administered, and not otherwise engaged in any other uninterruptible procedure or task.

(iv) a qualified airway specialist is trained in and maintains a current competency in endotracheal intubation, such as but not limited to a CRNA, anesthesiologist, emergency physician, paramedic, respiratory therapist or a registered nurse;

(v) shall decline to administer [↔] (v) medications classified as sedatives or other medication if the registered nurse assesses the administration of sedatives or other medication would be unsafe under the circumstances;

(vi) shall maintain adequate oxygenation and ventilation via an appropriate method.

(d) Administration of anesthetics is restricted to an anesthesia provider; pursuant to Section 61-3-6 NMSA 1978. However, RNs may maintain anesthetic medication drips on intubated and mechanically ventilated patients. RNs with education and competency may also administer anesthetic medications under the supervision of a qualified airway specialist, acting as a "provider's

third hand,” and assist with airway management when the provider is unable to free their hands or otherwise administer anesthetics during airway management. This restriction does not apply to surface or air transport RNs providing emergency airway care while in direct communication with their medical director or while following approved medical protocols.

(e)

A RN may administer ketamine at a very-low dose only in the following situations:

(i)

for providing moderate sedation for diagnostic or therapeutic procedures;

(ii)

for analgesia or management of psychiatric disorders, and

(iii)

for palliative (end of life) care. A very-low dose permitted under this rule, means a dose of ketamine that is a fraction of the anesthetic maintenance dose and will not exceed a moderate sedation level of consciousness for non-ventilated patients. Proper protocols, training and education of the RN must be in place to assure patient/client safety, rescue equipment is readily available, and the supervising provider is knowledgeable of the medications and can intervene if assistance is required.

I. Standards for

licensed practical nursing practice. Licensed practical nurses practice in accordance with the definition of licensed practical nursing in the NPA Subsection G of Section 61-3-3 NMSA 1978.

(1) LPNs

may assume specific functions and perform specific procedures which are beyond basic preparation for licensed practical nursing Subsection G of Section 61-3-3 NMSA 1978 provided the knowledge and skills required to perform the function and procedure emanates from the recognized body of knowledge and practice of nursing, and the functions or procedure is not prohibited by any law or statute. LPNs who perform procedures which are beyond basic preparation for practical nursing must only

perform these procedures under the supervision/direction of a RN, MD, DO, dentist, or Physician Assistant (PA), so long as a supervising PA is serving as a collaborative or supervised physician extender.

(2) LPNs

may perform intravenous therapy, including initiation of IV therapy, administration of intravenous fluids and medications, and may administer medications via the intraperitoneal route provided the LPN has the knowledge and skills to perform IV therapy safely and properly. LPNs may administer medications for minimum sedation/anoxiolysis only. Administration of medications for moderate sedation, deep sedation, or palliative sedation, including the administration of any anesthetics, is not within the LPN scope of practice.

(3) When

assuming specific functions and performing specific procedures which are beyond the LPN’s basic educational preparation, the LPN is responsible for obtaining the appropriate knowledge, skills and supervision to assure he/she can perform the function/procedure safely and competently.

(4) LPNs may

perform selected aesthetic procedures, such as laser treatments, under the direct supervision of a qualified provider. However, LPNs may not provide aesthetic injections.

J. Educational

program criteria. Educational programs preparing either RNs or LPNs to perform specific functions and procedures that are beyond basic educational preparations should:

(1) prepare the

nurse to safely and properly perform the function and procedures;

(2) prepare

the nurse to recognize and respond to any complication(s) which may result from the procedure, and;

(3) verify the

nurse’s knowledge and the ability to perform the specific functions and procedures.

[16.12.2.11 NMAC - Rp, 16.12.2.12 NMAC 12/13/2022, A; 5/21/2024]

16.12.2.12 ADVANCED PRACTICE REGISTERED NURSE (APRN) CERTIFIED NURSE PRACTITIONER (CNP):

A. Requirements for

licensure of nurse practitioners:

(1) Hold a

current, unencumbered RN license from New Mexico or hold a compact multi-state RN license.

(2)

Successfully complete a graduate level nursing program designed for the education and preparation of nurse practitioners as providers of primary, or acute, or chronic, or long-term, or end of life health care.

(a)

The program must be offered through an accredited institution of higher education or through the armed services.

(b)

If the applicant is initially licensed by any board of nursing including the New Mexico board of nursing after January 1, 2001 the program must be at the master’s in nursing level or higher. Applicants who do not hold a master’s level or higher degree from a nurse practitioner program and were initially licensed by any board before January 1, 2001, must provide verification of NP licensure.

(c)

The educational documentation shall verify the date of graduation, credentials conferred and number of supervised clinical hours as a nurse practitioner in the education program.

(d)

The educational documents must reflect successful completion of graduate degree courses.

(e)

Additional population foci can be added with transcripts from an accredited institution and a current national nurse practitioner certification.

(f)

Multiple national certifications will be maintained under a single APRN license.

(3)

Provide evidence of successful accomplishment of national certification as a nurse practitioner.

Only national certification based on competency examination will be accepted for the APRN licensure.

(4) It is the responsibility of the applicant to provide documented evidence of [his/her] their qualifications for licensure.

(5) Applicants who meet the minimum didactic and pharmacology requirements, but lack the required preceptorship, may be considered for licensure in New Mexico if the applicant provides satisfactory evidence of two years nurse practitioner experience in another jurisdiction.

(6) Nurse practitioners who will be requesting prescriptive authority must also comply with the requirements for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate nurse practitioner. The applicant seeking licensure as a nurse practitioner shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the New Mexico nurse practitioner licensure application and submit it along with all required documents in accordance with the instructions.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or its designee.

(4) Nurse practitioners are not eligible to practice in New Mexico as a certified nurse practitioner until so licensed in accordance with the licensure procedures.

(5) The board may appoint nurse practitioners to the advanced practice committee. These nurse practitioners will provide advice regarding licensure and practice of nurse practitioners.

C. Graduate nurse practitioners (GNP) permit-to-practice may be issued, upon written request, provided all requirements have been met except national nursing certification.

(1) GNPs must practice under the direct supervision of a physician or New Mexico Certified Nurse Practitioner (NCP) or Certified Nurse Specialist (CNS) in the specialty.

(2) GNPs may prescribe medications only under the direct supervision of a licensed CNP, CNS or a physician, in compliance with these rules. GNPs must fulfill the requirements in this section to prescribe controlled substances.

(3) GNP permits will be issued to the employer.

(4) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor and the name of the prescription supervisor, is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice at the new place of employment. The permit will be issued directly to the new employing agency.

(5) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GNP permit.

(6) GNP permits cannot be transferred or renewed.

(7) GNP permits expire on the date specified on the permit. Permits shall be valid not to exceed six months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice as a GNP. It is the responsibility of the GNP to request that the national certifying organization notify the board of nursing of the results of the examination.

D. An initial license to practice as a CNP shall be issued only after receipt by the board of

proof of national certification. Such proof must be submitted to the board directly from the certifying agency prior to the expiration of the permit or temporary license.

E. Expedited licensure for CNP's:

(1) The board will issue an expedited license to a qualified applicant based on prior licensure in an eligible jurisdiction other than New Mexico upon an applicant's submission of a complete application containing all of the following:

(a) a completed and signed application form;

(b) proof of current licensure in an eligible jurisdiction;

(c) proof of good standing for the license held by the applicant in an eligible jurisdiction;

(d) submission of fingerprints and other information necessary for a state and national background check; and

(e) payment of the required application fee.

(2) An expedited license application shall not be deemed complete until the applicant has submitted, and the board's staff is in receipt of, all of the materials required by ~~subsection E-(1)~~ Paragraph (1) of Subsection E of 16.12.2.12 NMAC including documentation from third parties.

(3) Upon submission of a complete application, the board's staff shall process the application and issue the expedited license to the applicant within 30 days unless the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3-28 NMSA 1978.

(4) If the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3-28 NMSA 1978:

(a) the license may not be issued within 30 days of submission of the complete application;

(b) the matter of the applicant’s application shall be submitted to the board for consideration and action at its next available regular meeting; and

(c) the board may vote to grant the application or refer the matter to its administrative prosecutor contemplating the ultimate denial of the application as provided by the board’s rules.

(5) Renewal of expedited licenses:

(a) A licensee holding an expedited license may apply for license renewal beginning 60 days prior to expiration of the expedited license, as provided by the board’s rules.

(b) Upon renewal, an expedited license shall become a regular single-state license.

(c) If the licensee holding an expedited license was not required by the licensee’s original jurisdiction outside of New Mexico to pass the NCLEX for original licensure, the licensee shall be required to take and pass the NCLEX as a prerequisite to the renewal of the license. In such a case, the expedited license shall not be renewed unless the licensee passes the NCLEX.

(6) Eligible and ineligible jurisdictions:

(a) The board will accept expedited license applications on the basis of prior licensure in any jurisdiction within the United States except the following:

(i) Michigan, on the grounds that this jurisdiction does not participate in the coordinated licensure system for the purposes of discipline; and

(ii) Puerto Rico, on the grounds that this jurisdiction does not participate in the coordinated licensure system.

(b) The board will accept expedited license applications on the basis of prior licensure in the following jurisdictions outside the United States: Canada.

F. Qualifications for licensure as CNP are pursuant to the Nursing Practice Act:

(1) Refer to Subsection A of 16.12.2.12 NMAC for licensure requirements.

(2) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

G. An initial nurse practitioner license shall be valid until the last day of the applicant’s birth month after the first anniversary of the initial license. For nurses from compact states, an NM advanced practice license will be issued with the same expiration date as the RN compact license. A letter of authorization will be issued to NPs who have RN multi-state licensure privileges from another nurse licensure compact state. Official verification to practice is located on the board website.

H. If the licensure process is not completed, the application becomes null and void [six] 12 months after the date of application being received at the board.

I. Authorization to expand scope of practice or who need recertification.

(1) A letter of authorization will be issued for the CNPs who through additional formal education have expanded their practice into another area of NP practice or who need practice hours to recertify provided all requirements have been met except national certification.

(2) A letter of verification of intent to provide a preceptorship, on official letterhead including the name of the practice preceptor and the name of the prescription preceptor must be submitted to the board of nursing.

(3) Practice must be under the direct supervision of a physician or licensed New Mexico CNP or CNS in the specialty.

(4) Prescribing may be done only under the direct supervision of a licensed CNP or CNS or a physician in compliance with these rules.

(5) A letter of authorization will be issued to the preceptor.

(6) A letter of authorization cannot be transferred, renewed or a duplicate issued.

(7) A letter of authorization will expire on the date specified.

(a) A letter of authorization shall be valid not to exceed six months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice in that area. It is the responsibility of the CNP to request that the national certifying organization notify the board of the results of the examination. A letter of authorization may be valid for a period not to exceed two years.

(b) A letter of authorization shall be valid for six months for those applicants recertifying.

(c) A letter of authorization shall be issued for the prescriptive authority preceptorship. This letter will only be valid for the duration of the preceptorship expansion of scope of practice or recertification required hours of practice.

J. Maintaining licensure as a nurse practitioner:

(1) National certification: NPs must maintain national certification. A copy of the specialty certification/recertification card shall be presented at the time of each subsequent renewal. Nurse practitioners licensed by the NM board, after December 2, 1985 are required to be nationally certified in their specialty.

(2) Continuing education:

(a)

A CNP with DEA registration at any time during their most recent renewal period shall obtain five contact hours in the management of non-cancer pain, in addition to submitting a valid national certification as an APRN.

(b)

A CNP without DEA must submit a valid national certification as an APRN.

K. Reactivation: To reactivate or reinstate licensure as a nurse practitioner, the nurse must provide evidence of meeting the CE requirements.

(1) NPs

licensed by the board after December 2, 1985 must also provide evidence of current national certification.

(2) CNPs who

are reactivating an advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is reflective of their knowledge skills and expertise. A temporary license will be issued not to exceed one year, unless the board of nursing approves an extension.

L. Nurse practitioner practice:

(1) The

CNP makes independent decisions regarding the health care needs of the client and also makes independent decisions in carrying out health care regimens.

(2) The CNP

provides primary or acute, or chronic, or long-term, or end of life health care to meet the health care needs of individuals, families and communities in any health care setting.

(3) The CNP

may assume specific functions or perform specific procedures which are beyond the advanced educational preparation and certification for the CNP provided the knowledge and skills required to perform the function or procedure emanates from a recognized body of knowledge or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions and performing specific

procedures, which are beyond the CNP's advanced educational preparation and certification, the CNP is responsible for obtaining the appropriate knowledge, skills, and supervision to ensure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(4) The CNP

collaborates as necessary with other healthcare providers. Collaboration includes discussion of diagnosis and cooperation in managing and delivering healthcare.

(5) CNPs

who have fulfilled requirements for prescriptive authority may prescribe and distribute dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act within their clinical specialty and practice setting.

(a)

Requirements for prescriptive authority: In accordance with applicable state and federal laws, the CNP who fulfills the following requirements may prescribe and distribute dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act.

(i)

Verifies 400 hours of work experience in which prescribing dangerous drugs has occurred within the two years immediately preceding the date of the application. Individuals who have not fulfilled this requirement must provide documentation of successful completion of 400 hours of prescribing dangerous drugs in a preceptorship with a licensed CNP, CNS or physician. The preceptorship must be completed within six months and a letter of authorization will be issued for the duration of the preceptorship.

(ii)

In order to prescribe controlled substances, the CNP must provide the board of nursing with verification of current state-controlled substances registration and current DEA number, unless the CNP has met registration

waiver criteria from the New Mexico board of pharmacy as provided under Subsection I of 16.19.20.8 NMAC. CNPs may not possess, prescribe or distribute controlled substances until they have both a current state-controlled substances registration and a current DEA registration.

(iii)

Once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

(b)

Formulary: It is the CNP's responsibility to maintain a formulary of dangerous drugs and controlled substances that may be prescribed with each renewal; the only drugs to be included in the formulary are those relevant to the CNP's specialty and practice setting. The board of nursing reserves the right to audit the formulary of the CNP. Licensees may be subject to disciplinary action by the board of nursing if non-compliant with the audit.

(c)

Prescription records: written, verbal or electronic prescriptions and orders will comply with state board of pharmacy and federal requirements. All prescriptions will include the name, title, address, and phone number of the prescribing advanced practice registered nurse.

(d)

Distributing: CNPs, who have fulfilled requirements for prescriptive authority as stated in these rules, and defined by the board of pharmacy may distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act, which have been prepared, packaged, or fabricated by the registered pharmacist or doses which have been pre-packaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act Section 61-11-12 NMSA 1978 and the Drug, Device and Cosmetic Act for the benefit of the public good.

(e)

Labeling: CNPs may label only those drugs which the CNP prescribes

and distributes to patients under the CNP’s care. The medication shall be properly labeled with the patient’s name, date of issue, drug name and strength, instructions for use, drug expiration date, number dispensed and name, address, and telephone number of the CNP. Labeling may be handwritten, or a pre-printed fill-in label may be used. All information shall be properly documented in the patient record.

(f) CNPs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

(g) CNPs may prescribe, provide samples of, and dispense any dangerous drug to a patient where there is a valid practitioner-patient relationship as defined in 16.12.2.7 NMAC.

(6) Graduate nurse practitioner (GNP) practice:

(a) GNPs may not distribute medications.

(b) GNPs may practice or prescribe medications only under the direct supervision of a licensed CNP, CNS or physician in the specialty.

(7) To [insure] ensure competency and safe practice in specific regard to prescription writing practices in the state of NM:

(a) a list of current CNPs and their status with regard to prescription writing shall be distributed at least annually and upon request to the board of pharmacy;

(b) violation of these rules or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy;

(c) the board of nursing shall appoint qualified CNPs in each specialty to serve on the board of pharmacy disciplinary panel as requested by the board of pharmacy.

M. Supervision of psychologists in the prescribing of psychotropic medication by a certified nurse practitioner, pursuant to Section 61-3-23.5 NMSA 1978 and the Professional Psychologist Act (Section 61-9-1 et. seq. NMSA 1978).

(1) A CNP may provide supervision to a psychologists in the prescribing of psychotropic medication provided the CNP:

(a) holds a valid, unencumbered NM license as a CNP;

(b) holds a national certification as a psychiatric-mental health nurse practitioner. An individual who holds a certification as a CNP conferred by a national nursing certification organization that is not an approved certification listed above may petition the board and request approval of the certification. The board shall review the petition and determine whether the certification and the petitioner’s clinical practice experience sufficiently substantiate adequate education, didactic and clinical preparedness, and other factors that establish competency. The decision of the board is discretionary and shall not be subject to review or binding on any future petition.

(c) has a minimum of two years of experience prescribing as a psychiatric-mental health nurse practitioner

(d) is not currently participating in any board of nursing’s alternative to discipline program, diversion program;

(e) is able to meet all requirements to serve as an independently licensed prescribing clinician as laid out in the Professional Psychologist Act (Section 61-9 NMSA 1978) and 16.22 NMAC; and

(f) performing the supervision is within the scope of practice of the CNP.

(2) Reporting obligations to the New Mexico board of nursing by a CNP providing

supervision to a psychologist in the prescribing of psychotropic medication:

(a) within 15 days of entering into the supervising relationship with each psychologist being supervised. The notification shall consist of:

(i) the name and license number of the psychologist;

(ii) the date of entry into the supervising relationship;

(iii) the anticipated end of the supervising relationship.

(b) within 15 days of severing the supervisory relationship with a psychologist. The notification shall consist of:

(i) the name and license number of the psychologist;

(ii) the date of the end of the supervising relationship.

(3) A CNP who provides supervision to a psychologist in the prescribing of psychotropic medication must follow the Professional Psychologist Act (Section 61-9 NMSA 1978) and rules promulgated by the New Mexico board of psychologist examiners. [16.12.2.12 NMAC - Rp, 16.12.2.13 NMAC, 12/13/2022, A; 5/21/2024]

16.12.2.13 ADVANCED PRACTICE REGISTERED NURSE (APRN) CERTIFIED REGISTERED NURSE ANESTHETIST (CRNA):

A. Requirements for licensure as a CRNA:

(1) Hold a current, unencumbered RN license from New Mexico or hold a compact multi-state RN license.

(2) Successfully complete a formal program designed for the education and preparation of certified registered nurse anesthetist. The COA *council on accreditation of nurse anesthesia educational programs* must accredit the program.

(3) If the applicant is initially licensed by any board of nursing including the New Mexico board of nursing after January 1, 2001, the program must be at the master's level or higher. Applicants who do not hold a master's or higher degree from a nurse anesthetist program and were initially licensed by any board before January 2, 2001, must provide verification of CRNA licensure.

(4) Provide evidence of successful completion of a national certification examination as described by the NBCRNA.

(5) It is the responsibility of the applicant to provide documented evidence of [his/her] their qualification for licensure.

(6) Applicants who will be requesting prescriptive authority must also comply with the requirements for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate. The applicant seeking licensure as a certified registered nurse anesthetist shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the New Mexico certified registered nurse anesthetist licensure application and submit it along with all required documents, and fee in accordance with the instructions.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or its designee.

(4) Certified registered nurse anesthetists are not eligible to practice in New Mexico as certified registered nurse anesthetist until so licensed in accordance with the licensure procedures.

(5) The board may appoint certified registered nurse anesthetists to the advanced practice

committee. These nurse anesthetists will provide advice regarding licensure and practice of certified registered nurse anesthetists.

C. Graduate registered nurse anesthetist permit-to-practice may be issued, upon written request, provided all requirements have been met except NBCRNA certification.

(1) A permit may be issued following graduation from an approved school of nurse anesthesia to afford the applicant the opportunity for employment pending dissemination of the national qualifying examination results by NBCRNA.

(2) GRNAs must function in an interdependent role as a member of a health care team and practice at the direction of and in collaboration with a physician, CRNA, osteopathic physician, dentist or podiatrist.

(3) GRNAs may prescribe and administer medications only in collaboration with a CRNA, physician, osteopathic physician, dentist or podiatrist in compliance with these rules.

(4) GRNAs permits will be issued to the employer(s).

(5) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor(s) and name of prescription supervisor(s), is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice for the new place of employment. The permit will be issued directly to the new employing agency.

(6) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GRNA permit.

(7) GRNA permits cannot be transferred or renewed.

(8) GRNA permits expire on the date specified on the permit.

(a) Permits shall be valid for

approximately 12 months subsequent to the date of graduation from the nurse anesthesia program.

(b) Written proof of application to write the national qualifying exam must be received in the board office within 12 weeks of graduation from the nurse anesthesia program.

(c) Verification that applicant wrote the national qualifying examination, must be received in the board office within three weeks subsequent to the date of the examination.

(d) Failure of applicant to write the scheduled qualifying examination or if the exam is failed, will render the applicant ineligible to practice anesthesia in New Mexico and the employer must immediately return the permit-to-permit to the board office. It is the responsibility of the GRNA to request that the national certifying organization notify the board of the results of the examination.

D. A license to practice as a CRNA shall be issued only after receipt by the board of proof of NBCRNA certification. Such proof must be submitted to the board by the certifying agency.

E. Expedited licensure for CRNA's:

(1) The board will issue an expedited license to a qualified applicant based on prior licensure in an eligible jurisdiction other than New Mexico upon an applicant's submission of a complete application containing all of the following:

(a) a completed and signed application form;

(b) proof of current licensure in an eligible jurisdiction;

(c) proof of good standing for the license held by the applicant in an eligible jurisdiction;

(d) submission of fingerprints and other information necessary for a state and national background check; and

(e) payment of the required application fee.

(2) An expedited license application shall not be deemed complete until the applicant has submitted, and the board's staff is in receipt of, all of the materials required by Paragraph (1) of Subsection E of 16.12.2.13 NMAC, including documentation from third parties.

(3) Upon submission of a complete application, the board's staff shall process the application and issue the expedited license to the applicant within 30 days unless the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3-28 NMSA 1978.

(4) If the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3-28 NMSA 1978:

(a) The license may not be issued within 30 days of submission of the complete application;

(b) The matter of the applicant's application shall be submitted to the board for consideration and action at its next available regular meeting; and

(c) The board may vote to grant the application or refer the matter to its administrative prosecutor contemplating the ultimate denial of the application as provided by the board's rules.

(5) Renewal of expedited licenses:

(a) A licensee holding an expedited license may apply for license renewal beginning 60 days prior to expiration of the expedited license, as provided by the board's rules.

(b) Upon renewal, an expedited license shall become a regular single-state license.

(c) If the licensee holding an expedited

license was not required by the licensee's original jurisdiction outside of New Mexico to pass the NCLEX for original licensure, the licensee shall be required to take and pass the NCLEX as a prerequisite to the renewal of the license. In such a case, the expedited license shall not be renewed unless the licensee passes the NCLEX.

(6) Eligible and Ineligible Jurisdictions

(a) The board will accept expedited license applications on the basis of prior licensure in any jurisdiction within the United States except the following:

(i) Michigan, on the grounds that this jurisdiction does not participate in the coordinated licensure system for the purposes of discipline; and

(ii) Puerto Rico, on the grounds that this jurisdiction does not participate in the coordinated licensure system.

(b) The board will accept expedited license applications on the basis of prior licensure in the following jurisdictions outside the United States: Canada.

F. Qualifications for licensure as CRNA are pursuant to the Nursing Practice Act.

(1) Refer to Subsection A of 16.12.2.13 NMAC for licensure requirements.

(2) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

G. An initial certified registered nurse anesthetist license shall be valid until the last day of the applicant's birth month after the first anniversary of the initial license. For nurses from compact states, a New Mexico advanced practice license will be issued with the same expiration date as the compact RN license. A letter of authorization will be issued to CRNAs who have RN multi-state licensure privileges from another nurse licensure compact states.

Official verification of authorization to practice is available through the board website.

H. If the licensure process is not completed, the application becomes null and void six months after the date received at the board of nursing.

I. Maintaining licensure as a certified registered nurse anesthetist.

(1) National certification: CRNAs must maintain NBCRNA. A copy of the recertification card must be presented at the time of each subsequent renewal.

(2) Continuing education: recertification by NBCRNA is accepted for meeting mandatory CE requirement. CRNAs with DEA registration at any time during their most recent renewal period shall obtain five contact hours in the management of non-cancer pain.

J. Reactivation: to reactivate or reinstate licensure as a certified registered nurse anesthetist.

(1) The nurse must provide evidence of current recertification by the NBCRNA.

(2) CRNAs who are reactivating an advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is reflective of their knowledge, skills and expertise. A temporary license will be issued not to exceed one year, unless board of nursing approves an extension.

K. Certified registered nurse anesthetist practice:

(1) The CRNA provides pre-operative, intra-operative and post-operative anesthesia care and related services, including ordering of diagnostic tests, in accordance with the current American [association of nurse anesthetists²] Association of nurse anesthesiology (AANA) guidelines for nurse anesthesia practice.

(2) The CRNA functions in an interdependent role as a member of a health care

team in which the medical care of the patient is directed by a licensed physician, osteopathic physician, dentist, APRN or podiatrist licensed in New Mexico. This does not require that the physician “supervise” or be “present” during a procedure/ anesthetic administered by the certified registered nurse anesthetist.

(3) The CRNA collaborates as necessary with the health care team members concerning the anesthesia care of the patient. Collaboration means the process in which each health care provider contributes their respective expertise. Collaboration includes systematic formal planning and evaluation between the health care professionals involved in the collaborative practice process.

~~(3)~~ (4) The CRNA may assume specific functions or perform specific procedures which are beyond the advanced educational preparation and certification for the CRNA provided the knowledge and skills required to perform the function or procedure emanates from a recognized body of knowledge or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions or performing specific procedures, which are beyond the CRNA’s advanced educational preparation and certification, the CRNA is responsible for obtaining the appropriate knowledge, skills, and supervision to ensure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

~~(4) The CRNA collaborates as necessary with the licensed physician, osteopathic physician, dentist or podiatrist concerning the anesthesia care of the patient. Collaboration means the process in which each health care provider contributes his/her respective expertise. Collaboration includes systematic formal planning and evaluation between the health care professionals involved in the collaborative practice arrangement.]~~

(5) CRNAs who have fulfilled requirements for prescriptive authority may prescribe and administer therapeutic measures, including dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act within the specialty of anesthesia and practice setting.

(a) Requirements for prescriptive authority: in accordance with applicable state and federal laws, the CRNA who fulfills the following requirements may prescribe and administer dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act.

(i) Verifies 400 hours of work experience in which prescribing and administering dangerous drugs has occurred within the two years immediately preceding the date of the application. Individuals who have not fulfilled this requirement must provide documentation of successful completion of 400 hours of prescribing dangerous drugs in a preceptorship with a CRNA or physician. The preceptorship must be completed within six months and a letter of authorization will be issued for the duration of the preceptorship.

(ii) In order to prescribe controlled substances, the CRNA must provide the board of nursing with verification of current state-controlled substances registration and current drug enforcement administration (DEA) number, unless the CRNA has met registration waiver criteria from the New Mexico board of pharmacy (Subsection I of 16.19.20.8 NMAC). CRNAs may not possess or prescribe controlled substances until they have both a current state-controlled substances registration and a current DEA registration.

(iii) Once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

(b) Formulary: the formulary will include agents related to the administration of anesthesia and Advanced Cardiac Life Support (ACLS) protocol agents.

(i) All CRNAs must adhere to the current formulary approved by the board of nursing.

(ii) The initial formulary or a formulary with changes will be submitted to the board of medical examiners for a review.

(c) Prescription records: written, verbal or electronic prescriptions and order will comply with state board of pharmacy and federal requirements. All prescriptions will include the name, title, address and phone number of the prescribing advanced practice registered nurse.

(d) Prescribing and administering: CRNAs who have fulfilled requirements for prescriptive authority as stated in these rules as defined by the board of pharmacy may prescribe and administer to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act, which have been prepared, packaged or fabricated by a registered pharmacist or doses or drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act Section 61-11-22 NMSA 1978 and the New Mexico Drug, Device and Cosmetic Act for the benefit of the public good.

(e) Distributing: CRNAs who have fulfilled requirements for prescriptive authority as stated in these rules may *not* distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act.

(f) CRNAs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to

prescriptive authority except those specifically required for controlled substances.

(6) Graduate registered nurse anesthetist practice.

(a) GRNAs may NOT distribute medications.

(b) GRNAs may practice or prescribe/ administer medications only in collaboration with a physician, osteopathic physician, dentist or podiatrist.

(7) To insure competency and safe practice in specific regard to prescription writing practices in the state of NM.

(a) A list of current CRNAs and their status with regard to prescription writing shall be distributed upon request to the board of pharmacy.

(b) Violation of these rules or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy.

(c) The board of nursing shall appoint as requested, qualified CRNAs to serve on the board of pharmacy disciplinary panel as requested by the board of pharmacy.

L. A CRNA business entity formed pursuant to the laws of the state of New Mexico is authorized to provide health care services in the state of New Mexico if the health care services are provided by persons who are duly licensed to engage in the practice of nursing pursuant to the provisions of the Nursing Practice Act.

[16.12.2.13 NMAC - Rp, 16.12.2.14 NMAC, 12/13/2022, A; 5/21/2024]

16.12.2.14 ADVANCED PRACTICE REGISTERED NURSE (APRN) CLINICAL NURSE SPECIALIST (CNS):

A. Requirements for licensure as a CNS:

(1) hold a current, unencumbered RN license from New Mexico or hold a compact multi-state RN license;

(2) successfully complete a clinical nurse specialist program at the master’s or doctoral level in a defined clinical nursing specialty through an accredited institution of higher education; and

(a) the educational documents must reflect successful completion of graduate degree courses;

(b) additional population foci can be added with transcripts from an accredited institution and a current national certification.

(3) provide evidence of successful accomplishment of certification by a national nursing organization, consistent with the defined clinical nursing specialty, which meets criteria as listed below:

(a) successfully complete a national certifying examination in the applicant’s area of specialty;

(b) is certified by a national nursing organization;

(c) it is the responsibility of the applicant to provide documented evidence of [his/ her] their qualifications for licensure;

(d) any CNS requesting prescriptive authority must also comply with the regulations for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate CNS: applicant seeking licensure as a CNS shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the New Mexico CNS application and submit it along with all requested documents in accordance with the instructions.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for

licensure may request or be requested to meet with the board or their designee.

(4) CNSs are not eligible to practice in New Mexico as a CNS until so licensed by the New Mexico board in accordance with licensure procedures.

(5) The board may appoint CNSs to the advanced practice committee. These CNSs will provide advice regarding the licensure and practice of the CNS.

C. Graduate clinical nurse specialist (GCNS) permit to practice.

(1) GCNS permits may be issued upon written request, provided all requirements have been met except certification by a national nursing organization.

(a) GCNSs practice under the direct supervision of another CNS, CNP or physician in the specialty.

(b) GCNSs may prescribe medications only under the direct supervision of a licensed CNS, CNP or physician in compliance with these rules.

(c) GCNS permits will be issued to the employer.

(d) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor and the name of the prescription supervisor is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice at the new place of employment. The permit will be issued directly to the new employing agency.

(e) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GCNS permit.

(f) GCNS permits cannot be transferred or renewed.

(g) GCNS permits expire on the date specified on the permit. Permits shall

be valid not to exceed six months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice as a GCNS. It is the responsibility of the GCNS to request that the national certifying organization notify the board of the results of the examination.

(2) An initial license to practice as a CNS shall be issued only after receipt by the board of proof of certification by a national nursing organization. Such proof must be submitted to the board directly from the certifying agency prior to the expiration of the permit or temporary license.

D. Expedited licensure for CNS's:

(1) The board will issue an expedited license to a qualified applicant based on prior licensure in an eligible jurisdiction other than New Mexico upon an applicant's submission of a complete application containing all of the following:

- (a) a completed and signed application form;
- (b) proof of current licensure in an eligible jurisdiction;
- (c) proof of good standing for the license held by the applicant in an eligible jurisdiction;
- (d) submission of fingerprints and other information necessary for a state and national background check; and
- (e) payment of the required application fee.

(2) An expedited license application shall not be deemed complete until the applicant has submitted, and the board's staff is in receipt of, all of the materials required by Paragraph (1) of Subsection D of 16.12.2.14 NMAC, including documentation from third parties.

(3) Upon submission of a complete application, the board's staff shall process the

application and issue the expedited license to the applicant within 30 days unless the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3-28 NMSA 1978.

(4) If the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3-28 NMSA 1978:

(a) the license may not be issued within 30 days of submission of the complete application;

(b) the matter of the applicant's application shall be submitted to the board for consideration and action at its next available regular meeting; and

(c) the board may vote to grant the application or refer the matter to its administrative prosecutor contemplating the ultimate denial of the application as provided by the board's rules.

(5) Renewal of expedited licenses:

(a) A licensee holding an expedited license may apply for license renewal beginning 60 days prior to expiration of the expedited license, as provided by the board's rules.

(b) Upon renewal, an expedited license shall become a regular single-state license.

(c) If the licensee holding an expedited license was not required by the licensee's original jurisdiction outside of New Mexico to pass the NCLEX for original licensure, the licensee shall be required to take and pass the NCLEX as a prerequisite to the renewal of the license. In such a case, the expedited license shall not be renewed unless the licensee passes the NCLEX.

(6) Eligible and Ineligible Jurisdictions

(a) The board will accept expedited license applications on the basis of

prior licensure in any jurisdiction within the United States except the following:

(i) Michigan, on the grounds that this jurisdiction does not participate in the coordinated licensure system for the purposes of discipline; and

(ii) Puerto Rico, on the grounds that this jurisdiction does not participate in the coordinated licensure system.

(b) The board will accept expedited license applications on the basis of prior licensure in the following jurisdictions outside the United States: Canada.

E. Qualifications for licensure as a CNS are pursuant to the Nursing Practice Act.

(1) Refer to Subsection A of 16.12.2.14 NMAC for licensure requirements.

(2) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

F. An initial clinical nurse specialist license shall be valid until the last day of the applicant's birth month after the first anniversary of the initial license. For nurses from compact states, a New Mexico advanced practice license will be issued with the same expiration date as the compact license. A letter of authorization will be issued to CNSs who have RN multi-state licensure privilege from another nurse licensure compact state. Official verification to practice is located on the board website.

G. If the licensure process is not completed, the application becomes null and void one year after the date of application being received at the board.

H. Authorization to expand scope of practice or who need recertification.

(1) A letter of authorization will be issued for the CNSs who through additional formal education have expanded their practice into another area of CNS

practice or who need practice hours to recertify provided all requirements have been met except national certification.

(2) A letter of verification of intent to provide a preceptorship, on official letterhead including the name of the practice preceptor and the name of the prescription preceptor must be submitted to the board of nursing.

(3) Practice must be under the direct supervision of a New Mexico CNS or CNP or physician in the specialty.

(4) Prescribing may be done only under the direct supervision of a licensed CNP or CNS or a physician in compliance with these rules.

(5) A letter of authorization will be issued to the preceptor.

(6) A letter of authorization cannot be transferred, renewed or a duplicate issued.

(7) A letter of authorization will expire on the date specified.

(a) A letter of authorization shall be valid not to exceed six months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice in that area. It is the responsibility of the CNS to request that the national certifying organization notify the board of the results of the examination. A letter of authorization may be valid for a period not to exceed two years.

(b) A letter of authorization will be valid for six months for those applicants recertifying.

(c) A letter of authorization shall be issued for the prescriptive authority preceptorship. This letter will only be valid for the duration of the preceptorship for expansion of scope of practice or recertification required hours of practice.

I. Maintaining licensure as a clinical nurse specialist.

(1) The CNS shall be nationally certified in the

specialty by a nursing organization and maintain national certification. A copy of the specialty certification/recertification card shall be presented at the time of each subsequent renewal.

(2) Continuing education:

(a) A CNS with DEA registration at any time during their most recent renewal period shall obtain five contact hours in the management of non-cancer pain, in addition to submitting a valid national certification as an APRN.

(b) A CNS without DEA must submit a valid national certification as an APRN.

Reactivation:

(a) To reactivate or reinstate licensure as a CNS, the nurse must provide evidence of meeting the CE requirements: evidence of current national certification must also be provided.

(b) CNSs who are reactivating an advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is reflective of their knowledge, skills and expertise. A temporary license will be issued not to exceed one year, unless the board of nursing approves an extension.

J. Clinical nurse specialist practice.

(1) The CNS is a nurse who through graduate level preparation has become an expert in a defined area of knowledge and practice in a selected clinical area of nursing.

(2) The CNS makes independent decisions in a specialized area of nursing practice, using knowledge about the health care needs of the individual, family and community. The CNS collaborates as necessary with other members of the health care team, when the needs are beyond the scope of practice of the CNS.

(3) The CNS may assume specific functions or

perform specific procedures which are beyond the advanced educational preparation and certification for the CNS provided the knowledge and skills required to perform the function or procedure emanates from a recognized body of knowledge or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions or performing specific procedures, which are beyond the CNS's advanced educational preparation and certification, the CNS is responsible for obtaining the appropriate knowledge, skills and supervision to assure the CNS can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(4) Carries out therapeutic regimens in the area of the specialty.

(5) The CNS who has fulfilled the requirements for prescriptive authority in the specialty area may prescribe and distribute therapeutic measures including dangerous drugs and controlled substances contained in Schedules II through V of the Controlled Substance Act within the scope of the specialty practice and setting.

(a) Requirements for prescriptive authority: In accordance with applicable state and federal laws, the CNS who fulfills the following requirements may prescribe and distribute dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act:

(i) verifies 400 hours of work experience in which prescribing dangerous drugs has occurred within the two years immediately preceding the date of application and provide a copy of a transcript documenting successful completion of the a three credit hour pharmacology course, a three credit hour assessment course and a three credit hour pathophysiology course included as part of a graduate level advanced practice nursing

education program; 45 contact hours of advanced level pharmacology continuing education course may be substituted for the academic pharmacology; a certificate of completion must be provided that verifies continuing education; or

(ii) if 400 hours of work experience in which prescribing dangerous drugs cannot be verified, provide a copy of a transcript documenting successful completion of a three credit hour pharmacology course that is included as part of a graduate level advanced practice nursing education program within five years immediately prior to the date of application to the board; 45 contact hours of advanced level pharmacology continuing education course may be substituted for the academic pharmacology; a certificate of completion must be provided that verifies continuing education; the course must be related to the specialty and contain content in pharmacokinetics, pharmacodynamics, pharmacology of current/commonly used medications and application of drug therapy to the treatment of disease or the promotion of health; and

(iii) provide a copy of a transcript documenting successful completion of a three credit hour assessment course that is included as part of a graduate level advanced practice nursing education program; the course must be related to the specialty and include content supported by related clinical experience such that students gain knowledge and skills needed to perform comprehensive assessments to acquire data, make diagnoses of health status and formulate effective clinical management plans; and

(iv) provide a copy of a transcript documenting successful completion of a three credit hour pathophysiology course that is included as part of a graduate level advanced practice nursing education program; the course must be related to the specialty and include content in physiology and pathophysiology;

(v) provide a copy of a transcript documenting successful completion of a 400 hour university/college associated preceptor experience in the prescription of dangerous drugs within the two years immediately prior to the date of application to the board; or

(vi) after fulfilling ii, iii, and iv above, upon application to the board, a letter of authorization for a prescriptive authority preceptorship will be issued to complete a preceptorship, which must be completed within six months;

(vii) in order to prescribe controlled substances, the CNS must provide the board of nursing with verification of current state controlled substances registration and current DEA number, unless the CNS with prescriptive authority has met registration waiver criteria from the New Mexico board of pharmacy; CNSs may not possess, prescribe or distribute controlled substances until they have both a current state controlled substances registration and a current DEA registration;

(viii) once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

(b) Formulary. It is the CNS's responsibility to maintain a formulary of dangerous drugs and controlled substances that may be prescribed. The only drugs to be included in the formulary are those relevant to the CNS's area of specialty practice, scope of practice and clinical setting. The board of nursing reserves the right to audit the formulary. Licensees may be subject to disciplinary action by the board of nursing if non-compliant with the audit.

(c) Prescription records: written, verbal or electronic prescriptions and orders will comply with state board of pharmacy and federal requirements. All prescriptions will include the

name, title, address and phone number of the prescribing advanced practice registered nurse.

(d) Distributing: CNSs who have fulfilled requirements for prescriptive authority as stated in these rules, may distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substance Act, which have been prepared, packaged, or fabricated by the registered pharmacist or doses which have been pre-packaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act and the Drug, Device and Cosmetic Act for the benefit of the public good.

(e) Labeling: CNSs may label only those drugs which the CNS prescribes and distributes to patients under the CNS's care. The medication shall be properly labeled with the patient's name, date of issue, drug name and strength, instructions for use, drug expiration date, telephone number of the CNS. Labeling may be handwritten or a pre-printed fill-in label may be used. All information shall be properly documented in the patient record.

(f) CNSs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

(6) Graduate clinical nurse specialist (GCNS) practice.

(a) GCNSs may not distribute medications.

(b) GCNSs may practice or prescribe medications only under the direct supervision of a licensed CNS, CNP or physician in the specialty.

(7) To insure competency and safe practice in specific regard to prescription writing practices in the state of NM:

(a) a list of current CNSs and their status

with regard to prescription writing shall be distributed upon request to the board of pharmacy;

(b) violation of these rules or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy;

(c) the board of nursing shall appoint qualified CNSs in each specialty to serve on the board of pharmacy disciplinary panel as requested by the board of pharmacy.

K. Supervision of psychologists in the prescribing of psychotropic medication by a clinical nurse specialist, pursuant to Section 61-3-23.5 NMSA 1978 and the Professional Psychologist Act (Section 61-9-1 et. seq. NMSA 1978).

(1) A CNS may provide supervision to a psychologist in the prescribing of psychotropic medication provided the CNS:

(a) holds a valid, unencumbered NM license as a CNS;

(b) holds a national certification as a psychiatric-mental health clinical nurse specialist. An individual who holds a certification as a CNS conferred by a national nursing certification organization that is not an approved certification listed above may petition the board and request approval of the certification. The board shall review the petition and determine whether the certification and the petitioner’s clinical practice experience sufficiently substantiate adequate education, didactic and clinical preparedness, and other factors that establish competency. The decision of the board is discretionary and shall not be subject to review or binding on any future petition.

(c) has a minimum of two years of experience prescribing as a psychiatric-mental health clinical nurse specialist;

(d) is not currently participating in

any board of nursing’s alternative to discipline program, diversion program;

(e) is able to meet all requirements to serve as an independently licensed prescribing clinician as laid out in the Professional Psychologist Act (Section 61-9 NMSA 1978) and 16.22 NMAC; and

(f) performing the supervision is within the scope of practice of the CNS.

(2) Reporting obligations to the New Mexico board of nursing by a CNS providing supervision to a psychologist in the prescribing of psychotropic medication:

(a) within 15 days of entering into the supervising relationship with each psychologist being supervised. The notification shall consist of:

(i) the name and license number of the psychologist;

(ii) the date of entry into the supervising relationship;

(iii) the anticipated end of the supervising relationship.

(b) within 15 days of severing the supervisory relationship with a psychologist. The notification shall consist of:

(i) the name and license number of the psychologist

(ii) the date of the end of the supervising relationship.

(3) A CNS who provides supervision to a psychologist in the prescribing of psychotropic medication must follow the Professional Psychologist Act (Section 61-9 NMSA 1978) and rules promulgated by the New Mexico board of psychologist examiners.

L. Advanced practice committee.

(1) The board may appoint a minimum of a six member advisory committee to assist the board in regulating the advanced practice of nursing.

(2) The committee shall assist and advise the board in the review of issues related to the advanced practice of nursing.

(3) The committee shall be composed of representatives from each advanced practice area regulated by the board. [16.12.2.14 NMAC - Rp, 16.12.2.15 NMAC, 12/13/2022, A; 5/21/2024]

16.12.2.15 EXPEDITED LICENSURE FOR MILITARY SERVICE MEMBERS AND VETERANS:

A. The board will issue an expedited license to an applicant who is a military service member or veteran based on prior licensure in a jurisdiction other than New Mexico upon the applicant’s submission of a complete application containing all of the following:

- (1) a completed and signed application form;
- (2) proof of current licensure in another jurisdiction;
- (3) proof of good standing for the applicant’s out of state license;
- (4) submission of fingerprints and other information necessary for a state and national background check; and
- (5) Submission of the following documentation:

(a) for military service member: a copy of military orders;

(b) for spouse of military service members: copy of military service member’s military orders, and copy of marriage license;

(c) for spouses of deceased military service members: copy of decedent’s DD 214 and copy of marriage license;

(d) for dependent children of military service members: a copy of military service member’s orders listing dependent child, or a copy of military orders and one of the following: a copy of birth certificate,

military service member's federal tax return or other governmental or judicial documentation establishing dependency;

(e)

for veterans (retired or separated): a copy of DD 214 showing proof of honorable discharge.

B. An expedited license application shall not be deemed complete until the applicant has submitted, and the board's staff is in receipt of, all of the materials required by subsection A, including documentation from third parties.

C. Upon submission of a complete application, the board's staff shall process the application according to licensing protocol and issue the expedited license to the applicant within 30 days unless the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3-28 NMSA 1978.

D. If the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3-28 NMSA 1978:

(1) the

license may not be issued within 30 days of submission of the complete application;

(2) the

matter of the applicant's application shall be submitted to the board for consideration and action at its next available regular meeting; and

(3) the board

may vote to grant the application or refer the matter to its administrative prosecutor contemplating the ultimate denial of the application as provided by the board's rules.

E. Duration of expedited licenses:

(1) The first licensure period will be for up to one year from the issuance of the license, with the expiration being correlated to the last day of the applicant's birth month, according to licensing processes. Continuing education will be prorated.

(2) The first renewal period will be for two years

from the date of the first expiration date of the first licensure period.

(3) A licensee

holding an expedited license may apply for license renewal in the manner provided by the board's rules. If the licensee holding an expedited license was not required by the licensee's original jurisdiction outside of New Mexico to pass the NCLEX, the licensee shall be required to take and pass the NCLEX as a prerequisite to the renewal of the expedited license.

(4) Upon

renewal, an expedited license shall become a regular single state license.

(5) If the

military expedited licensure holder requests a multistate RN or LPN license, all requirements of the nurse licensure compact must be met, including completion of another background check. The fee for a multistate license will not be waived.

F. Military service

members and veterans shall not pay and the board shall not charge a licensing fee for the first three years for a license issued pursuant to this rule.

[16.12.2.15 NMAC - N, 12/13/2022 A; 5/21/2024]

NURSING, BOARD OF

This is an amendment to 16.12.3 NMAC, Sections 7, 8, 11 and 12 effective 5/21/2024.

16.12.3.7 DEFINITIONS:

A. Definitions

beginning with "A":

(1)

"application", form provided by the board of nursing (BON) to any potential nursing program to be used as the first process in opening a new program;

(2)

"approval", official or formal consent, confirmation or sanction:

(3) **"associate**

degree program", a formalized program of study, usually organized for completion within a two-year academic period, which prepares

graduates for an associate degree in nursing and eligibility to take the national examination for registered nurses. The program is conducted as an integral department or division within a college or university.

B. Definitions

beginning with "B":

(1)

"baccalaureate degree program", a formalized program of study, usually organized for completion within a four-year academic period, which prepares graduates for a degree in nursing and eligibility to take the national licensing examination for registered nursing. The program is conducted as an integral department or division within a university or college;

(2) **"board"**,

New Mexico board of nursing.

C. Definitions

beginning with "C":

(1) **"clinical**

facilities", institutions which are established for the delivery of nursing care services (hospital, extended care facilities, nursing homes, medical clinics, public health facilities, physician's offices, out-patient clinics, etc.);

(2) **"clinical**

preceptors", nurses who have been a nurse for at least two years and have demonstrated competencies related to the area of assigned clinical teaching responsibilities and will serve as a role model and educator to the student. The clinical preceptor shall not receive financial incentives from the nursing program for an assigned student.

(3) **"clock/**

contact hour", unit of measurement used by educational institutions to determine work load;

(4)

"curriculum", a course of study which is offered within a particular program.

D. Definitions

beginning with "D": **"director"**, the nurse educator (regardless of the official title assigned by any specific institution who is delegated the administrative responsibility and authority for the direction of the basic

educational program in nursing. An “administrator” shall be considered synonymous with “director” unless the institution has divided up authority between a program “director” and an administrator.

E. Definitions

beginning with “E”: “**educational institution**”, an institution within the educational system which is organized and accredited for teaching and study (university, high school, post-secondary, approved area vocational institution).

F. Definitions

beginning with “F”: [RESERVED]

G. Definitions

beginning with “G”: [RESERVED]

H. Definitions

beginning with “H”: **High-fidelity**”, provides the highest levels of realism. Scenarios may incorporate the above low- and medium-fidelity plus the use of computer-based equipment with automatic cues and responses.

I. Definitions

beginning with “I”: **“Involuntary closure”**, mandatory closure by the board for failure of a program to meet the minimum requirements as established by the board.

J. Definitions

beginning with “J”: [RESERVED]

K. Definitions

beginning with “K”: [RESERVED]

L. Definitions

beginning with “L”: **“Low-fidelity”**, the least realistic of available options. Scenarios may include but not limited to the use of static manikins, written case studies, simulated medication administration and other nursing tasks.

M. Definitions

beginning with “M”:

(1) **“medium-fidelity”**, scenarios may include use of low-fidelity resources noted above plus standardized (live) patients incorporation with increased realism. Automatic cues and responses (aside from simulation faculty & staff) remain absent;

(2) **“must”**, a requirement.

N. Definitions

beginning with “N”:

(1) **“national licensing examination”**, examination

for licensure as provided by the national council of state boards of nursing;

(2) **“national nursing accreditation”**, recognition of an institution of learning by a board recognized national nursing organization as maintaining prescribed standards requisite for its graduates to gain admission to other reputable institutions of higher learning or achieve credentials for professional practice.

O. Definitions
beginning with “O”: [RESERVED]

P. Definitions
beginning with “P”:

(1) **“parent institution”**, an institution within the educational system which is organized and accredited for teaching and study (university, college, high school);

(2) **“practical nurse program”**, a formalized program, which prepares a graduate for a diploma or certificate and eligibility to take the national licensing examination for practical nursing. The program is conducted as an integral part of an educational institution;

(3) **“pre-licensure program”**, nursing education program that prepares an individual for the national licensing examination for registered nursing or practical nursing;

(4) **“program”**, the curriculum and all of the activities/functions that take place which are necessary to fulfill the purpose of nursing education;

(5) **“public health emergency”**, an executive order pursuant to the Public Health Emergency Response Act or an executive order invoked by gubernatorial powers under the All Hazards Emergency Management Act.

Q. Definitions
beginning with “Q”: [RESERVED]

R. Definitions
beginning with “R”: [RESERVED]

(1) **“recommendations”**, statements which should guide programs of nursing in the development and

direction of the program but which are not mandatory;

(2) **“regulation and policies”**, statements governing practice of the board of nursing in the approval of a program of nursing;

(3) **“requirements”**, conditions which any program of nursing shall meet to obtain approval.

S. Definitions

beginning with “S”:

(1) **“shall”**, mandatory; a requirement;

(2) **“should”**, a suggestion or recommendation; not a requirement;

(3) **“simulation”**, an experience that imitates the real environment, requiring individuals to demonstrate the procedural techniques, decision-making, and critical thinking needed to provide safe and competent patient care;

(4) **“supervision of part-time faculty without a graduate degree in nursing”**, initial verification of instructor’s knowledge and skills in supervision of students in clinical settings, followed by periodic observation, direction and evaluation of instructor’s knowledge and skills related to supervision of students in clinical settings.

T. Definitions
beginning with “T”: [RESERVED]

U. Definitions
beginning with “U”: [RESERVED]

V. Definitions
beginning with “V”: [RESERVED]

W. Definitions
beginning with “W”: [RESERVED]

X. Definitions
beginning with “X”: [RESERVED]

Y. Definitions
beginning with “Y”: RESERVED]

Z. Definitions
beginning with “Z”: [RESERVED]
[16.12.3.7 NMAC - Rp, 16.12.3.7 NMAC, 10/1/2016; A, 4/8/2021; A, 12/13/2022; A, 5/21/2024]

16.12.3.8 TYPES OF APPROVAL:

<p>A. Initial approval:</p> <p>(1) Initial approval shall be granted as outlined in numbers 16.12.3.11 NMAC “requirements for the establishment of new programs and 16.12.3.12 NMAC “minimum standards for nursing programs” of these rules. Initial approval is valid from the time granted through the graduation of the first nursing class.</p> <p>(2) The program shall have initial approval prior to recruiting and enrolling students into the nursing program.</p> <p>(3) Immediately preceding graduation of the first nursing class, an approval site visit shall be made by representatives of the board to determine compliance with “minimum standards for nursing programs” and for consideration of continued approval.</p>	<p>(a) All currently board approved nursing programs shall achieve national nursing accreditation by January 1, 2018.</p> <p>(b) New programs shall be required to achieve national nursing accreditation by two years after the graduation of the first cohort.</p> <p>(c) Programs which have received accreditation from a board-recognized national nursing accreditation agency shall file evidence of initial accreditation with the board, and thereafter shall file notice of any change in program accreditation status and report from accrediting agency’s board of review; the board shall grant approval based upon evidence of such accreditation.</p> <p>(d) Programs holding approval based upon national accreditation are also responsible for complying with “minimum standards for nursing programs”.</p> <p>(e) Full approval for a continuing period not to exceed 10 years, shall be granted to nursing programs with full national nursing accreditation.</p> <p>(f) Programs that do not meet or maintain this requirement will be placed on full approval with warning.</p>	<p>from January 1st through December 31st of the calendar year.</p> <p>(i) Eighty percent of the first-time NCLEX candidates are required to achieve a passing score on the NCLEX examination during the exam year.</p> <p>(ii) A program must submit corrections to any errors on the candidates reports within 90 days of the receipt of a report from the agency.</p> <p>(iii) When a program fails to maintain a passing rate of [eight] <u>eighty</u> percent of first-time candidates for one year, the program will receive notification from the board of nursing.</p> <p>(iv) The program is required to submit a self-study report with corrective action to the board of nursing by June 1st of the calendar year.</p> <p>(v) When a program fails to maintain a passing rate of eighty percent of first-time candidates for two consecutive calendar years the nursing education program will be granted full approval with warning.</p>
<p>B. Initial approval with warning:</p> <p>(1) When a program fails to meet the minimum standard requirements with the initial graduating class then initial approval with warning will be granted.</p> <p>(2) The program must correct all the identified deficiencies of the minimum standards not met.</p> <p>(3) Initial approval with warning shall not exceed two years.</p> <p>(4) When a program fails to meet the minimum standards for nursing programs within two years, the program will be placed in conditional approval.</p>	<p>(a) An annual report which includes information regarding compliance with 16.12.3.12 NMAC minimum standards for nursing programs shall be submitted to the board by the nursing education program.</p> <p>(b) The annual NCLEX pass rate for each nursing education program is determined by the percentage of first-time test takers who have graduated within three years and who pass the examination during the exam year,</p>	<p>(c) <u>A nursing program affiliated with a public higher education institution whose high risk student population to number of students enrolled by headcount is greater than fifty percent may request full approval with a seventy-five percent first-time NCLEX pass rate. The high risk student percentage will be calculated based on the definitions and numbers of the most recent fiscal year reported to the department of finance and administration.</u></p>
<p>C. Full approval:</p> <p>(1) Full approval status shall be granted after the board verifies that the “minimum standards for nursing programs” have been met.</p> <p>(2) Full approval for a continuing period not to exceed ten years, shall be granted to nursing education programs if, in the opinion of the board, the program continues to demonstrate compliance with minimum standards for nursing programs.</p> <p>(3) National nursing accreditation.</p>	<p>(4) Ongoing approval status is assessed annually by the board and is based on information reported or provided in the program’s annual report, NCLEX exam pass rates, and information related to the minimum standards.</p>	<p>D. Full approval with warning:</p> <p>(1) the program must correct all the identified deficiencies of the minimum standards not met;</p> <p>(2) nursing programs shall provide a corrective action plan (CAP);</p> <p>(3) full approval with warning shall not exceed two years;</p>

(4) any other discretion or conditions deemed necessary by the board may be imposed;

(5) a nursing program with full approval with warning status shall not expand their respective programs or increase student admissions.

E. Conditional approval:

(1) The nursing education program shall be placed on conditional approval not to exceed two years when there is evidence of substantial non-compliance with the “minimum standards for nursing programs” as specified in these rules.

(2) When on conditional approval status, the nursing program shall cease admissions.

(3) The following situations are cause for review or a site visit by the board to determine if the minimum standards for nursing programs are being met:

(a) complaints relating to violations of the “minimum standards for nursing programs”;

(b) denial, withdrawal or change of program accreditation status by a board-recognized national nursing accreditation agency or general academic accreditation agency;

(c) failure to obtain board approval of changes that require approval of the board under “program changes”;

(d) providing false or misleading information to students or the public concerning the nursing program;

(e) violation of the rules 16.12.3 NMAC;

(f) continuous disruptions in retaining a qualified director or faculty, resulting in disorganization and breakdown of supervision and teaching of students;

(g) non-compliance with the program’s stated philosophy, objectives, policies, and curriculum resulting in unsatisfactory faculty/student achievement;

(h) failure to provide clinical experiences necessary to meet the objectives of the nursing program;

(i) less than a passing rate of eighty percent of first time writers of the national licensing examination for more than three consecutive calendar years or is on full approval with warning for two years and has not met the “minimum standards of a nursing programs” including maintaining an adequate pass rate;

(4) Conditional approval is not renewable. Failure to correct deficiencies within the designated time period will result in withdrawal of approval and involuntary closure of the program by the board. Full approval status shall be granted after the board verifies through a site visit that correction of deficiencies have occurred within the designated time period.

(5) The board may deny approval or withdraw approval of a nursing education program that does not meet the “minimum standards for nursing programs.”

[16.12.3.8 NMAC - Rp, 16.12.3.8 NMAC, 10/1/2016; A, 4/8/2021; A, 12/13/2022; A, 5/21/2024]

16.12.3.11 REQUIREMENTS FOR THE ESTABLISHMENT OF NEW NURSING PROGRAMS:

A. All programs not previously approved by the board are required to be approved by the board under the procedures prescribed in this section. Feasibility studies, proposals, and initial approvals shall be considered during a regularly scheduled board meeting.

(1) Programs which were previously approved and have been closed for more than six months shall follow the requirements for establishing a new program.

(2) Programs offering clinical experience or field experiences in the state of more than one semester shall apply for program approval by the board for clinical placement. Programs approved by

another state board of nursing must meet the minimum standards set forth in 16.12.3.12 NMAC.

B. Any institution considering the establishment of a pre-licensure nursing education program shall submit, a letter of intent, the resume and transcripts of the nursing program administrator, complete application form and feasibility study, at least 12 months in advance of the proposed opening date. The application, feasibility study and program proposal shall be prepared by a qualified nurse educator.

(1) The letter of intent shall state the parent institution’s intention of opening a nursing program and verify approval of the proposed program by the highest governing body of the institution.

(2) The completed application shall include attached evidence of national or regional accreditation of the parent institution.

(3) The feasibility study shall contain the following:

(a) rationale for the establishment of the nursing program;

(b) documentation of the need/demand for a new nursing program;

(c) nursing manpower needs in the state and region;

(d) impact on other nursing education programs in the state;

(e) definition of the target region from which the student population will be drawn;

(f) availability of the proposed number of faculty and director; and

(g) proposed clinical facilities detailing accessibility and documenting the plan for clinical facility use to provide educationally sound experiences. The effect on other nursing programs utilizing the facility must also be documented.

(h)

any correspondence with a state board of nursing related to program approval status.

C. The feasibility study must be approved by the board before the proposal is submitted.

D. The proposal shall be submitted at least six months prior to the proposed opening date. The board of nursing shall approve the proposal upon submission of evidence that verifies the following:

(1) compliance with “minimum standards for nursing programs;”

(2) documentation of the parent institution to support the program in relation to:

(a) plans for providing adequate support services including library audio/visual resources; classrooms, laboratory, offices, secretaries, and counseling; and

(b) evidence of financial resources for planning, implementing and continuing the program.

(3) tentative timetable for planning and implementing the entire program;

(4) appointment of a qualified nurse director, as specified in the “minimum standards for nursing programs,” to be active full-time in the position six months prior to the starting date;

(5) evidence of a sufficient number of qualified faculty, as specified in “*minimum standards for nursing programs*”; faculty shall be active in their positions no later than two months before the start of the first class.

E. Requirements for approval:

(1) Following approval of the proposal, arrangements will be made for the initial approval visit for the purpose of verifying compliance with the minimum standards for nursing programs. A written report of the visit will be submitted to the board and to the institution.

(2) The board shall advise the institution, in writing, regarding the approval/disapproval of the feasibility study, proposal, initial approval status, and may include specific requirements that must be met during the approval period.

(3) The board of nursing may deny approval to a program that does not meet the “minimum standards for nursing programs.”

[16.12.3.11 NMAC - Rp, 16.12.3.11 NMAC, 10/1/2016; A, 5/21/2024]

16.12.3.12 MINIMUM STANDARDS FOR NURSING PROGRAMS:

A. Administration and organization:

(1) The nursing education program shall be an integral part of an institution of higher education that is authorized by this state to confer credentials in nursing and that is also accredited by an accreditation agency recognized by the US department of education.

(2) The nursing program shall obtain national nursing accreditation within two years of the first graduating class.

(3) The nursing programs shall have status comparable with other academic units. There shall be an organizational chart which identifies the relationships, within and between the program and other administrative areas of the parent institution.

(4) The administration of the parent institution shall provide adequate financial support for the nursing program.

(5) The parent institution shall designate a qualified, nursing director who is licensed to practice as a registered nurse in New Mexico or in a compact state. The nursing program director shall have responsibility and authority comparable with the administrative position including but not limited to development, implementation, evaluation, administration and organization of the nursing program.

(6) The nursing program shall have specific

written policies available to students and the public regarding, but not limited to, admission, readmission, transfer, advanced placement, progression, graduation, withdrawal, dismissal, student rights and responsibilities, grievances, health and safety.

(7) The nursing program shall provide accurate, complete and appropriate information to all students and prospective students about the program including, but not limited to:

(a) nature of the program, including course sequence, prerequisites, co-requisites and academic standards;

(b) length of the program;

(c) current cost of the program;

(d) transferability of credits to other public and private educational institutions in New Mexico;

(e) program teaching methods and supporting technology;

(f) current standing and any change in regional or national institutional accreditation status and national nursing accreditation status and board approval status.

(8) The nursing program shall require primary source verification for education credit given for any pre-licensure program in their respective institution.

~~(8)~~ (9) Faculty and students shall participate in program planning, implementation, evaluation and continuous improvement.

B. Curriculum:
(1) The mission of the nursing unit shall be consistent with that of the parent institution.

(2) A nursing program shall develop and implement a curriculum that includes level objectives, course objectives; measurable learning outcomes for each course that:

(a) reflect its mission and goals;

(b) are logically consistent between and within courses;

(c) are designed so that the students who complete the program will have the knowledge and skills necessary to function in accordance with the definition and scope of practice specified in New Mexico Nurse Practice Act.

(3) The curriculum shall extend over a period of time sufficient to provide essential, sequenced learning experiences which enable a student to develop nursing competence and shall evidence an organized pattern of instruction consistent with principles of learning and educational practice.

(4) Clinical experience shall provide opportunities for application of theory and for achievement of the stated objectives in a client care setting or simulation learning settings, and shall include clinical learning experience to develop nursing skills required for safe practice. In the client care clinical setting, the student/faculty ratio shall be based upon the level of students, the acuity level of the clients, the characteristics of the practice setting and shall not exceed 8:1. In the simulation setting there shall be nursing faculty who has received focused training in simulation pedagogy and techniques. Clinical evaluation tools for evaluation of students' progress, performance and learning experiences shall be stated in measurable terms directly related to course objectives. Simulation learning experiences may concurrently include the use of low, medium, and high fidelity experiences. Nursing programs shall:

(a) establish clearly-defined simulation learning outcomes incorporating objective measures for success;

(b) incorporate written, planned design of individual training experiences and shall include consideration of the educational and experiential levels of the learners;

(c) make use of checklists for pre- and post-experience analysis and review;

(d) may substitute up to a maximum of fifty percent of a clinical education experiences using simulation programs and practices;

(i) in the event of a public health emergency that negatively impacts access to clinical placement, nursing programs submit a major change notification increasing the simulation substitution to a maximum of seventy percent

(ii) the major change would be in effect for the period of the public health event ending when the health order is terminated;

(e) have written simulation policies and procedures specific to the nursing education available to all faculty and pertinent staff. Simulation learning policies and procedures shall include evaluative feedback mechanisms for ongoing program improvement;

(f) incorporate facilitated student-centered debriefing sessions upon the conclusion of simulation-based activities.

(5) The curriculum shall provide instruction in the discipline of nursing across the lifespan and include content relevant to national and local health care needs. Support courses shall be an integral part of the nursing curriculum.

(6) The nursing program shall implement a comprehensive, systematic plan for ongoing evaluation that is based on program outcomes and incorporates continuous improvement.

C. Program director requirements:

(1) Prior to appointment, the program director shall:

(a) hold a graduate degree in nursing;

(b) hold a current registered nurse license to practice in New Mexico;

(c) have work experience in clinical nursing practice;

(d) have work experience as a nurse educator.

(2) The program director shall:

(a) maintain a current registered nurse license to practice in New Mexico;

(b) be afforded appropriate resources to accomplish the program mission, goals and expected program outcomes;

(c) have the authority and responsibility for administration of the program to include but not limited to budget management, workload assignments, management and supervision of faculty and staff, development and enforcement of policies, meeting regulatory and accreditation requirements, and development and implementation of curriculum;

(d) have at least eighty percent of obligated work time to administer the program.

D. Faculty requirements:

(1) The faculty of the nursing program shall hold a current license to practice as a registered nurse in New Mexico.

(a) A formal plan will be in place which will include an orientation to nursing program.

(b) Nursing faculty who teach full-time shall hold a graduate degree in nursing; faculty without a graduate degree with a baccalaureate degree in nursing may be employed for one year and then are required to complete a graduate degree within the next five years; an educational contract with evidence of progression will be submitted with program annual report.

(c) Nursing faculty who teach part time shall hold a minimum of a bachelor's degree in nursing; faculty without a Bachelor of Science in Nursing BSN may be employed for one year and

then are required to complete a BSN completion program or Master of Science in Nursing (MSN) program within five years, an educational contract with evidence of progression will be submitted with program annual report.

(i) Part time faculty without a graduate degree in nursing shall report to a master's prepared faculty and evidence of routine supervision shall be documented.

(ii) Part-time faculty shall be oriented to the curriculum, and provided with instruction in didactic and clinical teaching strategies.

(2) Clinical preceptors are licensed as a nurse at or above the educational level for which the student is preparing.

(3) Personnel policies for nursing faculty shall be the same as those in effect for other faculty with the exception of:

(a) nursing faculty workload shall be calculated by teaching clock/contact hour;

(b) evidence of full time and part time faculty evaluation shall be in place;

(4) A nursing program shall maintain current and accurate faculty and student records.

(5) The nursing program will retain a qualified director and a sufficient number of qualified faculty to meet the outcomes and purposes of the nursing education program.

E. Resources: The parent institution shall provide sufficient resources, services and facilities to operate the nursing program.

F. The nursing education program will maintain a passing rate of eighty percent or above of first time writers of the national licensing exam. Certain nursing programs in public higher education institutions may have a pass rate of seventy-five percent if criteria in Subparagraph (c) of Paragraph (4) of Subsection C of 16.12.3.8 NMAC [16.12.3.12 NMAC - Rp, 16.12.3.12

NMAC, 10/1/2016; A, 9/12/2017; A, 4/8/2021; A, 5/21/2024]

NURSING, BOARD OF

This is an amendment to 16.12.4 NMAC, Sections 6, 7, 9 and 10 effective 5/21/2024.

16.12.4.6 OBJECTIVE:
Pursuant to the Nursing Practice Act, this part establishes the requirements for fees, examinations, endorsement, recertification standards and functions, [~~supervision/director~~ supervision, direction and disciplinary action for hemodialysis technicians.

It also establishes requirements for approval of hemodialysis technician programs, minimum standards for hemodialysis training programs, and the hemodialysis technician advisory committee.

[16.12.4.6 NMAC - Rp, 16.12.4.6 NMAC, 12/13/2022, A, 5/21/2024]

16.12.4.7 DEFINITIONS:

A. Definitions beginning with the letter A:

(1) **"administrator"**, means an operating officer of an agency with the authority to make notification of change to the New Mexico board of nursing;

(2) **"agency"**, means a business, organization or facility at specified location that is approved by the New Mexico board of nursing to train hemodialysis technician students;

(3) **"approval"**, means action taken by the board to accept and grant specific recognition.

(4) **"audit"**, means a verification of continuing education documents and work hour requirements.

B. Definitions beginning with the letter B:
"board", means New Mexico board of nursing (NMBON).

C. Definitions beginning with the letter C:
(1) **"central venous catheter"**, means a synthetic

tube place into a high flowing central vein used to provide hemodialysis;

(2) **"certificate"**, means a document issued by the board identifying legal privilege and authorization to perform specific certified hemodialysis technician functions and procedures in the state of New Mexico;

(3) **"certification examination"**, means a board-approved tool designed to evaluate an applicant's knowledge of a specific subject;

(4) **"certified hemodialysis technician (CHT)"**, refers to a person who has received national certification and is certified by the board to assist in the direct care of patients undergoing hemodialysis, under the supervision and at the direction of a registered nurse according to the rules adopted by the board;

(5) **"certified hemodialysis technician I (CHT I)"**, refers to a person who is certified by the board to assist in the direct care of patient undergoing hemodialysis under the supervision and direction of a registered nursing according to the rules adopted by the board;

(6) **"certified hemodialysis technician II (CHT II)"**: refers to a person who has met the requirements of a certified hemodialysis technician (CHT) and has successfully completed the training for the expanded scope of practice as defined in the rules from an approved hemodialysis technician training program and receives certification from the board for the expanded scope of practice;

(7) **"clinical experience"**, refers to the supervised skills component of the hemodialysis training program;

(8) **"clinical preceptor"**, means a registered nurse who supervises and observes hemodialysis technician students providing hemodialysis patient care:

(9) **"competency"**, means the demonstration of knowledge in a specific area and the ability to perform specific skills and tasks in a safe, efficient manner:

(10) **“continuing education (CE)”**, means a planned learning experience for certified hemodialysis technicians which includes experiences designed to promote the development, knowledge, skills, and attitudes for the enhancement of care to the patient and may be offered by the nurse educator of the agency;

(11) **“contact hour”**, means a unit of measurement to describe an approved organized learning experience. One contact hour is equivalent to a continuous 60 minute clock hour;

(12) **“curriculum”**, means a detailed course outline, description or syllabus, which, includes objectives, content, teaching-learning activities and evaluation strategies, and includes the minimum required program hours.

D. Definitions beginning with the letter D:
(1)

“delegation”, means transferring to a competent individual the authority to perform a delegated nursing task in a selected situation. The licensed nurse retains accountability for the delegation;

(2) **“direct supervision”**, refers to the supervision by a licensed nurse who is physically present, and readily accessible to the certified hemodialysis technician and hemodialysis technician student when providing patient care. Direct supervision includes observing, evaluating and directing the care being provided.

E. Definitions beginning with the letter E:
[RESERVED]

F. Definitions beginning with the letter F:
“faculty”, means any professional or paraprofessional person(s) who teaches for the hemodialysis technician program including clinical preceptors.

G. Definitions beginning with the letter G:
[RESERVED]

H. Definitions beginning with the letter H:

“hemodialysis technician training program”, means an educational program approved by the board for persons seeking certification as hemodialysis technicians.

I. Definitions beginning with the letter I:
[RESERVED]

J. Definitions beginning with the letter J:
[RESERVED]

K. Definitions beginning with the letter K:
[RESERVED]

L. Definitions beginning with the letter L:
“license”, means a document identifying the legal privilege and authorization to practice within a **professional category.**

M. Definitions beginning with the letter M:
[RESERVED]

N. Definitions beginning with the letter N:
(1)

“national certification”, means a certification obtained by completing an examination through a nationally recognized certifying organization which indicates a certified hemodialysis technician has knowledge and competence in providing care to patients undergoing hemodialysis as evidenced by passing an examination and maintaining a minimum number of work hours and continuing education during the renewal period;

(2) **“nurse educator”**, means the registered nurse who is responsible for the development, implementation and evaluation of a hemodialysis technician training program and retains ultimate responsibility for determining hemodialysis technician student’s competency.

O. Definitions beginning with the letter O:
[RESERVED]

P. Definitions beginning with the letter P:
(1) **“program evaluation”**, means the process whereby the program at the agency is evaluated at the request of the board for approval status;

(2) **“program review”**, means the routine process whereby the program at the agency is reviewed prior to the approval expiration date to assure compliance with the rules and regulations governing hemodialysis technician programs. This may include a site visit with or without official notification to the agency.

Q. Definitions beginning with the letter Q:
[RESERVED]

R. Definitions beginning with the letter R:
(1)

“reactivation”, the process of making a certificate current which has been in a lapsed status as result of the certificate holder failing to comply with renewal requirements. This does not involve board action;

(2) **“reinstatement”**, means the process whereby a certificate which has been subject to revocation or suspension is returned to its former status by individual board action; this process always involves board action.

S. Definitions beginning with the letter S:
(1) **“site visit”**, means visit made directly to the hemodialysis technician training program by board staff;

(2) **“standards of function”**, means a range of tasks or activities performed by certified hemodialysis technicians for patients who are stable and predictable, supervised by a licensed registered nurse who may need to limit the range of tasks based on the patient’s needs.

T. Definitions beginning with the letter T:
[RESERVED]

U. Definitions beginning with the letter U:
[RESERVED]

V. Definitions beginning with the letter V:
[RESERVED]

W. Definitions beginning with the letter W:
[RESERVED]

X. Definitions beginning with the letter X:
[RESERVED]

Y. Definitions

beginning with the letter Y:
[RESERVED]

Z. Definitions

beginning with the letter Z:
[RESERVED]

[16.12.4.7 NMAC - Rp, 16.12.4.7
NMAC, 12/13/2022, A, 5/21/2024]

**16.12.4.9 CERTIFICATION
REQUIREMENTS FOR
HEMODIALYSIS TECHNICIANS:**

New Mexico certification of
hemodialysis technicians is
mandatory.

A. Prerequisites:

(1) ~~[Be a high school graduate]~~ Hold a high school diploma or have proof of successfully passing a general education development test.

(2) The applicant for certified hemodialysis technician will demonstrate completion of adequate training by:

(a) submitting proof of successful completion of a board approved hemodialysis technician training program; or

(b) submitting proof of a valid national hemodialysis technician certificate from a recognized organization.

(3) Submit the required application to the agency with required fees.

B. Applications and fees:

(1) Board staff will verify eligibility. Applications received by the board staff are valid for one year.

(2) Applications containing fraudulent or misrepresented information could be the basis for denial of certification.

(3) Incomplete applications for certification will not be processed. The applicant will be notified within 30 days of submission of application about incomplete information.

(4) Written verification of successful completion according to the minimum standards for approval of hemodialysis technician programs indicating the

date of completion must be received, directly from the hemodialysis technician program, and signed by the nurse educator within 30 days of completion.

(5) The applicant will request that the national certifying body for hemodialysis technicians send verification directly to the board.

(6) A re-examination fee will be charged for all re-examinations of the state-based examination.

(7) An initial certificate shall be valid until the last day of the applicant's birth month after the first anniversary of the initial certificate.

~~[C.]~~ Hemodialysis technician initial certification examination for CHT I:

~~(1) The board shall develop and maintain the board-approved certification examination for hemodialysis technicians. Applicants [maybe] may only take the state board-approved examination for the CHT I certificate issued before 1/1/2024. After 1/1/2024 all initial applications for the certified hemodialysis technician will require a national hemodialysis technician certificate.~~

~~(2) Board approved examination centers shall comply with the security procedures developed by the board for distribution and administration of the examination.~~

~~(3) Applicants for certification as a hemodialysis technician shall be required to pass the hemodialysis technician certification examination with a minimum score of eighty percent.~~

~~(4) Applicants must obtain New Mexico state certification within six months of successfully completing a board-approved training program.~~

~~(a) Applicants who fail the examination may repeat the examination one time within a two month period without repeating an approved training program.~~

~~(b)~~

~~Applicants must remain under the supervision of a board-approved clinical preceptor until they successfully pass a hemodialysis technician certification examination.~~

~~(5) Applicants observed giving or receiving unauthorized assistance during the writing of the examination shall be dismissed from the examination center and the individual(s) shall be referred to the board by a sworn complaint filed by the proctor.~~

~~(6) Results of the examination shall be reported by the online portal to the applicants no later than four weeks following the examination date. If the applicant passes the examination, the applicant cannot work as a CHT I until the certificate has been issued by the board.~~

~~(7) An initial certificate shall be valid until the last day of the applicant's birth month after the first anniversary of the initial certificate.~~

~~D. Certification by examination for CHT II:~~

~~(1) CHT II shall be required to pass a certification examination with a minimum score of eighty percent that is specific to their expanded scope of practice. Applicants [maybe] may only take the state board-approved examination for the CHT II certificate issued before 1/1/2024. After 1/1/2024 all initial applications for the certified hemodialysis technician will require a national hemodialysis technician certificate.~~

~~(2) CHT II applicants who fail the exam may repeat the examination one time within a two month period without repeating an approved training program. [If the CHT II does not pass the second examination they must take a refresher course specific to the expanded scope of function.] Applicants must remain under the supervision of a board-approved clinical preceptor while practicing their extended scope of practice until they successfully pass the CHT II state exam.~~

~~_____ (3) _____ Written verification of successful completion according to the minimum standards for approval of the CHT II programs indicating the date of completion must be received, directly from the hemodialysis technician program, and signed by the nurse educator in the board office within 30 days of completion of the training program.~~

~~_____ (4) _____ Complete the required application form in the specified deadline and remit the required fee.~~

~~_____ (5) _____ A re-examination fee will be charged for all re-examinations.~~

~~_____ (6) _____ Results of the examination shall be reported, by the online portal to the applicants no later than four weeks following the examination date. If the applicant passes the examination, the applicant cannot work as a [CHT I] CHT II until the certificate has been issued by the board.~~

~~_____ (7) _____ The expiration date for the CHT II will align with the expiration date of the CHT I.~~

~~_____ E.] C. Initial certification for CHT:~~

~~_____ (1) [Be a high school graduate] Hold a high school diploma or have proof of successfully passing a general education development test.~~

~~_____ (2) The applicant must submit proof of a valid national hemodialysis technician certificate from a recognized organization. If the applicant passes the national hemodialysis technician examination, the applicant cannot work as a [CHT I] CHT until the certificate has been issued by the board.~~

~~_____ (3) Attestation from the agency nurse educator that the applicant has been oriented to the scope of function of the certified hemodialysis technician.~~

~~_____ (4) An initial certificate shall be valid until the last day of the applicant’s birth month after the first anniversary of the initial certificate.~~

~~_____ [F.] D. Endorsement:~~

~~_____ (1) If an applicant holds hemodialysis certification from another jurisdiction in the United States, the application must:~~

~~_____ (a) meet all the prerequisites;~~

~~_____ (b) submit verification from another jurisdiction directly to the board that certificate is in good standing. If the applicant is unable to provide verification, then the applicant must follow the process for initial certification;~~

~~_____ (c) submit the required application and fee.~~

~~_____ (2) An initial certificate shall be valid until the last day of the applicant’s birth month after the first anniversary of the initial certificate.~~

~~_____ [G.] E. Requirements for hemodialysis technicians’ renewal:~~

~~_____ (1) Certified hemodialysis technicians (CHT Is) renewing their certificate shall be required to complete the process by the end of their renewal month. CE and work hour requirements may be prorated to commensurate with the length of the renewal period.~~

~~_____ (a) Failure to receive a notification for renewal shall not relieve the CHT I of the responsibility of renewing the certificate by the expiration date.~~

~~_____ (b) If the certificate is not renewed by the end of the renewal month, the CHT I does not hold a valid certificate and shall not function as a CHT I in New Mexico until the lapsed certificate has been reactivated.~~

~~_____ (c) If a CHT I certificate holder has a national certification as a hemodialysis technician, for the first renewal after 12/31/2023, the certificate will be transitioned to a CHT certificate. The CHT I must fulfill continuing education and work requirements to complete the transition.~~

~~_____ (d) If the CHT I certificate holder does not have national certification as~~

a hemodialysis technician, the certificate will remain a CHT I. If the CHT I certificate is allowed to lapse and remain inactive for more than one year past the expiration date, the CHT I certificate holder must complete the hemodialysis technician training program and meet the requirements for the CHT certificate, including obtaining a valid national hemodialysis technician certificate from a recognized organization.

~~_____ (2) Certified hemodialysis technicians II (CHT IIs) renewing their certificate shall be required to complete the process by the end of their renewal month. CE and work hour requirements may be prorated to commensurate with the length of the renewal period. CHT II certificate holder for the first renewal period after 12/31/2023, will transition to a CHT certificate.~~

~~_____ (a) The CHT II must fulfill continuing education and work requirements to complete the transition to CHT.~~

~~_____ (b) If the CHT II certificate is allowed to lapse and remain inactive for more than one year past the expiration date, the CHT II certificate holder must complete the hemodialysis technician training program and meet the requirements for the CHT certificate, including obtaining a valid national hemodialysis technician certificate from a recognized organization.~~

~~_____ (3) Certified hemodialysis technicians (CHTs) renewing their certificate shall be required to complete the process by the end of their renewal month. CE and work hour requirements may be prorated to commensurate with the length of the renewal period.~~

~~_____ (a) The CHT must supply a current valid national hemodialysis technician certificate from a recognized organization. For the CHT II who transitioned to CHT without a national certification, passing the state based CHT II examination will substitute for the national certification.~~

~~_____ (b) If the CHT certificate is allowed to lapse and remain inactive for more~~

than one year past the expiration date, the CHT certificate holder must ~~[attend]~~ complete the hemodialysis training program and meet the requirements for the CHT certificate, including obtaining a valid national hemodialysis technician certificate from a recognized organization.

(4) Continuing education requirements:

(a) 16 contact hours of continuing education must be accrued within the 24 months immediately preceding renewal. CE may be prorated to commensurate with the length of the renewal period.

(b) Recertification by a national CHT certifying body will meet the mandatory CE requirements for New Mexico certification renewal. Continuing education obtained for national certification is applicable if completed during the renewal period.

(c) Continuing education records are subject to audit by the board. Certificate holders may be subject to disciplinary action by the board if non-compliant within 60 days of the first notification of the audit.

(d) CHT and CHT II shall accrue four additional contact hours of continuing education within the 24 months that preceded the expiration of the certificate. These additional contact hours must be specific to their expanded scope of function and may be prorated to commensurate with the length of the renewal period if less than 24 months.

(5) Work requirement: Applicant must provide evidence of a minimum of 1,000 hours work as a CHT, CHT I, or CHT II during the 24 month period immediately preceding certification renewal.

(a) Work requirement records are subject to audit by the board. Work hours may be prorated to commensurate with the length of the renewal period if less than 24 months.

(b) Certificate holders may be subject to disciplinary action by the board if

noncompliant within 60 days of the first notification of the audit.

(6) Remit the required fee.

(7) Failure to meet the continuing education or employment requirements for recertification shall result in denial of recertification until ~~[completion of a refresher course with the appropriate application and fee have been submitted to the board.]~~ reactivation requirements are met.

~~[H.]~~ E. Reactivation of certificate for CHT, CHT I, CHT II:

(1) If the certificate has been inactive for less than one year, the applicant may reactivate the license by submitting an application for reactivation, paying the required fee, and submitting proof of required continuing education contact hours for a 24 month certificate period and required work hours.

(a) In substitution of continuing education and work hours, the applicant for reactivation of a CHT I certificate may take a refresher course.

(b) In addition, a CHTs lapsed certificate holder must submit a valid national hemodialysis technician certificate from a recognized organization.

(2) If the CHT, CHT I, and CHT II certificate is allowed to lapse and remain inactive for more than one year past the expiration date, the CHT certificate holder must ~~[attend]~~ complete the hemodialysis training program and meet the requirements for the CHT certificate, including obtaining a valid national hemodialysis technician certificate from a recognized organization.

~~[F.]~~ G. Refresher course requirements:

(1) Completion of a minimum of 80 hours of supervised clinical practice in a board approved hemodialysis technician training program under the supervision of an approved clinical preceptor.

(2) Successful completion of the hemodialysis

technician training program's skills list identified in the core curriculum 16.12.4.16 NMAC.

(3) Successful completion of the hemodialysis technician training program final examination.

(4) Written verification, on agency letterhead, of successful completion of supervised clinical practice, skills list, and the final examination results shall be provided to the board by the program's board-approved nurse educator.

(5) Completion of a refresher course shall meet both the employment and continuing education requirements for the ~~[two year renewal period.]~~ reactivation of the CHT I certificate.

(6) Remit the required application and fee. [16.12.4.9 NMAC - Rp, 16.12.4.9 NMAC, 12/13/2022, A, 5/21/2024]

16.12.4.10 STANDARDS OF FUNCTION FOR THE CERTIFIED HEMODIALYSIS TECHNICIAN:

- A. Purpose:**
- (1) To establish standards for supervision and direction of the CHT, CHT I and CHT II.
 - (2) To identify basic functions for the CHT, CHT I and CHT II.
 - (3) To identify the authorized and prohibited functions for the CHT, CHT I and CHT II.
 - (4) To identify the expanded role of the CHT II and CHT.

- B. Authorized functions of the CHT I with supervision of a registered nurse:**
- (1) perform arteriovenous punctures for dialysis access;
 - (2) inject intradermal lidocaine in preparation for dialysis access;
 - (3) administer a heparin bolus;
 - (4) administer a fluid bolus of isotonic saline;

- (5) connect a dialysis access to isotonic saline or heparinized isotonic saline;
- (6) administer oxygen via nasal cannula or mask;
- (7) collect data for the nursing assessment;
- (8) initiate and discontinue treatment via arterio-venous access;
- (9) re-infusion of blood upon termination of treatment of central venous catheters.

C. Authorized functions of the CHT and CHT II with the supervision of a registered nurse:

- (1) perform arteriovenous punctures for dialysis access;
- (2) initiate, monitor, and discontinue dialysis via central venous catheter;
- (3) inject intradermal lidocaine in preparation for dialysis access;
- (4) administer a heparin bolus via intravenous route;
- (5) administer a fluid bolus of isotonic saline;
- (6) connect a dialysis access to isotonic saline or heparinized isotonic saline;
- (7) administer oxygen via nasal cannula or mask;
- (8) collect data for the nursing assessment;
- (9) initiate and discontinue treatment via arterio-venous access;
- (10) re-infusion of blood upon termination of treatment of central venous catheters;
- ~~(11) may remove catheter dressing to evaluate for potential complication, but may not redress site;~~
- ~~(12) shall not initiate or discontinue a central venous catheter that is not functioning as intended. Under no circumstance should there be any attempt to manipulate a malfunctioning catheter.~~

~~E.] D.~~ Prohibited functions of the CHT, CHT I, and CHT II:

- (1) shall not administer medications by oral, intramuscular, intravenous or subcutaneous routes except those

- agents addressed in authorized functions of these rules;
 - (2) shall not take orders for dialysis treatments;
 - (3) shall not alter dialysis orders as prescribed by a health care provide
 - (4) CHT I shall not initiate or discontinue via central venous catheters.
 - (5) shall not perform hemodialysis treatments without direct supervision of a registered nurse.
- [16.12.4.10 NMAC - Rp, 16.12.4.10 NMAC, 12/13/2022, A, 5/21/2024]

**PUBLIC SAFETY,
DEPARTMENT OF**

This is an emergency amendment to 10.2.4 NMAC, Sections 2, 3, 7, 8, & 9, effective 5/10/2024

10.2.4.2 SCOPE: All law enforcement agencies eligible to receive funding from the law enforcement retention fund for the purpose of providing a retention differential disbursement to ~~[eligible]~~ full-time certified law enforcement officers employed by that law enforcement agency.
[10.2.4.2 NMAC - N, 4/25/2023; A/E 5/10/2024]

10.2.4.3 STATUTORY AUTHORITY: This rule is promulgated pursuant to Sections 9-19-6 E. and 9-19-14 NMSA 1978 of the Department of Public Safety Act, as amended by 2024 HB 193. Section 9-19-14, as amended creates a law enforcement retention fund in the state treasury and requires the Department to develop rules, forms, standards, procedures and related training for law enforcement agencies to report retention information when seeking monies to provide retention differential disbursements to eligible full-time certified law enforcement officers within the law enforcement agency’s employ.
[10.2.4.3 NMAC - N, 4/25/2023; A/E 5/10/2024]

10.2.4.7 DEFINITIONS: This rule adopts the definitions found in Section 9-19-2 NMSA 1978, [and] Subsection M of Section 9-19-14 NMSA 1978 and 2024 HB 193, as if fully set forth herein. In addition to the definitions adopted, the following terms have the following meaning:

A. “Certified”
means an individual certified as a peace officer pursuant to the Law Enforcement Training Act, Section 29-7-1 to 29-7-16 NMSA 1978.

B. “Date of hire”
means the month, date and year the individual was hired by a law enforcement agency for the purpose of serving as a full-time certified law enforcement officer with that agency.

~~[B.]~~ **C. “DPS”** means the department of public safety.

~~[C.]~~ **D. “Eligible law enforcement agency”** means an agency eligible to receive monies from the LERF because the agency:

(1) has, prior to June 1 of the reporting fiscal year, made a request for monies from the DPS and included in that request the information on which the agency is required to report under Section 9-19-14 H NMSA 1978 and this rule;

(2) is, at the time of submitting the request for monies to DPS in compliance with that portion of the Law Enforcement Training Act that requires every law enforcement agency to submit a quarterly report to the director of the law enforcement academy and the New Mexico law enforcement standards and training council; and

(3) has, at the time of submitting the request for monies to DPS, submitted the agency’s most current roster of full-time certified law enforcement officers, including commission dates, to the New Mexico law enforcement academy.

E. “Eligible officer”
means [an officer who has remained employed as a law enforcement officer with the same law enforcement agency one year and one day after reaching four, nine, fourteen and nineteen years of consecutive service from the law enforcement officer’s

date of hire with that law enforcement agency] a full-time certified law enforcement officer employed by any law enforcement agency, who after completing four, nine, 10, 14, or 20 or more years of service since the law enforcement officer's initial date of hire, remains employed for one additional year with the law enforcement agency by whom the officer was employed at the time the officer completed four, nine, 14, or 20 or more years of service and who is in compliance with the in-service training and reporting requirements of the Law Enforcement Training Act.

~~[D:]~~ **E.** “**Employer tax liability**” means the employer contribution for payroll taxes outlined in the Federal Insurance Contribution Act for Social Security and/or Medicare. This does not include any employer contributions for retirement or other benefit plans.

~~[E:]~~ **G.** “**Law enforcement academy**” means the New Mexico law enforcement academy created by Section 29-7-2 NMSA 1978 or any of the satellite academies certified by the New Mexico law enforcement ~~[academy board]~~ standards and training council, its predecessors, or successors.

~~[F:]~~ **H.** “**Law enforcement retention fund**” means a fund in the state treasury, consisting of money appropriated by the legislature, federal money granted to the state for the purposes of the fund, income from investment of the fund and money otherwise accruing to the fund. Money in the fund does not revert to any other fund at the end of the fiscal year. The fund is administered by DPS to provide monies to law enforcement agencies who request the funds for the purpose of providing retention differential disbursements to full-time certified law enforcement officers within the agency's employ who meet [statutorily prescribed] requirements prescribed by statute and by this rule.

~~[G:]~~ **I.** “**LERF**” means law enforcement retention fund.

~~[H:]~~ **J.** “**Portal**” means the electronic system through which law enforcement agencies annually report

to the DPS the data required by this rule in order ~~[for the law enforcement agency]~~ to receive funding from the law enforcement retention fund for the purpose of providing retention differential disbursements to eligible officers employed by that agency.

~~[K:]~~ **K.** “**PRDD**” means the amount of the projected retention differential disbursement stated in dollars and cents to be paid to the eligible officer.

~~[L:]~~ **L.** “**Reporting fiscal year**” means the fiscal year in which the law enforcement agency is reporting to DPS the information set forth in Subsection A of 10.2.4.9 NMAC.

~~[M:]~~ **M.** “**Salary**” means the base hourly rate of pay of the full-time certified law enforcement officer for two thousand eighty hours, excluding overtime, any percentage pay increases or multiple components of pay.

~~[N:]~~ **N.** “**Years of service**” means the number of ~~[consecutive]~~ years, months and days, beginning with the date of hire, a full-time certified law enforcement officer is employed by a law enforcement agency for the purpose of serving as a full-time certified law enforcement officer with a [single] law enforcement agency.
[10.2.4.7 NMAC - N, 4/25/2023 ; A/E 5/10/2024]

10.2.4.8 CALCULATION OF THE PROJECTED FIVE PERCENT RETENTION DIFFERENTIAL DISBURSEMENT BY THE REPORTING LAW ENFORCEMENT AGENCY:

The salary used by the law enforcement agency to calculate the five percent retention differential disbursement for those officers projected to be eligible officers in the upcoming fiscal year, shall be the salary of the officer on the date the officer reached four, nine, 14 or 19 or 20 or more years of [consecutive] service with the law enforcement agency requesting the retention differential disbursement.
[10.2.4.8 NMAC - N, 4/25/2023; A/E 5/10/2024]

10.2.4.9 REPORTING REQUIREMENTS FOR AGENCIES SEEKING RETENTION DIFFERENTIAL DISBURSEMENTS

A. Every law enforcement agency seeking monies from the LERF for retention differential disbursements for full-time certified law enforcement officers within its employ, who are projected to be eligible officers in the upcoming fiscal year, shall annually report to DPS the following information:

(1) The full legal name and date of hire of the full-time certified law enforcement officer projected to be an eligible officer in the upcoming fiscal year, the PRDD for [that] each officer, the amount of the annual salary on which the PRDD was calculated and the amount of the employer tax liability attributable to the PRDD. The amount of the employer tax liability shall specify the amount attributable to Social Security and the amount attributable to Medicare;

(2) The aggregate number of full-time certified law enforcement officers employed by the law enforcement agency during each of the five fiscal years immediately preceding the reporting fiscal year. For any officer employed less than a full fiscal year, the law enforcement agency shall report the number of months and days the officer was employed, identifying the officer without personally identifying information (e.g. Officer # 1, Officer # 2, etc.).

(3) For each officer included in Paragraph (2) of Subsection A above, the number of years (or partial years) of service of each full-time certified law enforcement officer with the reporting agency.

(4) The number of full-time certified law enforcement officers that left the employ of the law enforcement agency during the fiscal year immediately preceding the reporting fiscal year. The number of years of service with the reporting law

enforcement agency of each departing officer ~~[and], the [stated reasons why each law enforcement officer left the employ of the law enforcement agency]~~ agency's reason for each involuntary departure and the officer's stated reason, if any, for each voluntary departure.

(5) The number of applicants to the full-time certified law enforcement agency for a position as a law enforcement officer during the fiscal year immediately preceding the reporting fiscal year.

(6) The number of applicants to the law enforcement agency for a position as a full-time certified law enforcement officer in the fiscal year immediately preceding the reporting fiscal year, who attended a law enforcement academy.

(7) The number of full-time certified law enforcement officers within the reporting agency's employ who received one or more certifications during the fiscal year immediately preceding the reporting fiscal year.

(8) The number of full-time certified law enforcement officers added to the law enforcement agency by way of lateral transfer during the fiscal year immediately preceding the reporting fiscal year and the years of service of each added officer at each previous law enforcement agency if known to the reporting agency.

(9) Any changes to compensation, recruiting, retention or benefits of full-time certified law enforcement officers implemented by the law enforcement agency during the fiscal year immediately preceding the reporting fiscal year.

(10) The number of full-time certified law enforcement officers that are projected to become eligible for a retention differential disbursement in the upcoming fiscal year, and the projected amount of the retention differential disbursement including any employer tax liabilities for each eligible officer.

(11) Any other information requested by DPS that is used for determining retention rates, unless disclosure of such information is otherwise prohibited by law.

B. The information in Subsection A above shall be reported to the DPS for the upcoming fiscal year no later than May 31.

C. The information in Subsection A above shall be reported to the DPS through the electronic portal, unless DPS advises the applying law enforcement agencies that a different reporting method should be used.

D. In order to receive funding for retention differential disbursements, the law enforcement agency must, at the time of the request, be in compliance with the in-service officer training and reporting requirements of the New Mexico Law Enforcement Training Act set forth in Section 29-7-7.1 NMSA 1978 and 29-7-7.2 NMSA 1978.

E. In order to receive funding for retention differential disbursements, the law enforcement agency must have submitted the agency's most current roster of full-time certified law enforcement officers, including commission dates, to the New Mexico law enforcement academy no later than April 1 of the reporting fiscal year.

[10.2.4.9 NMAC - N, 4/25/2023; A/E 5/10/2024]

End of Adopted Rules

2024 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXXV, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 4	January 16
Issue 2	January 18	January 30
Issue 3	February 1	February 13
Issue 4	February 15	February 27
Issue 5	February 29	March 12
Issue 6	March 14	March 26
Issue 7	March 28	April 9
Issue 8	April 11	April 23
Issue 9	April 25	May 7
Issue 10	May 9	May 21
Issue 11	May 23	June 11
Issue 12	June 13	June 25
Issue 13	July 8	July 16
Issue 14	July 18	July 30
Issue 15	August 1	August 13
Issue 16	August 15	August 27
Issue 17	August 29	September 10
Issue 18	September 12	September 24
Issue 19	September 26	October 8
Issue 20	October 10	October 22
Issue 21	October 24	November 5
Issue 22	November 7	November 19
Issue 23	November 26	December 10
Issue 24	December 12	December 23

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rulemaking, 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. The *New Mexico Register* is available free online at: <http://www.srca.nm.gov/new-mexico-register/>. For further information, call 505-476-7941