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# New Mexico Register

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

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## **The New Mexico Register**

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# New Mexico Register

Volume XXXV, Issue 19

October 8, 2024

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## Notices of Rulemaking and Proposed Rules

### ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT OIL CONSERVATION COMMISSION

#### NOTICE OF PUBLIC MEETING AND PUBLIC HEARING

The New Mexico Oil Conservation Commission (Commission) hereby gives notice that the Commission will hold the following public meeting and public hearing commencing at 9:00 am on November 12-15, 2024, in person, online, and via telephone. Public and other oral comments may be made in person, on-line or by telephone. The Commission shall make available to the public a preliminary agenda for the meeting no later than two weeks prior to the meeting, and a final agenda for the meeting no later than 72 hours before the meeting. The agenda shall specify the order of the proceedings and, to the extent feasible, identify the specific time(s) that public comments are to be heard. The agenda shall be posted online on the Commission's Hearings page under "OCC Meetings and Hearings/2024 OCC Agendas," accessible from the following web page:  
<https://www.emnrd.nm.gov/ocd/occ-info/>

**Case No. 23580: APPLICATION OF WILDEARTH GUARDIANS TO AMEND THE COMMISSION'S RULES TO ADDRESS PFAS, AMENDMENTS TO 19.15.2, 19.15.7, 19.15.14, 19.15.16, AND 19.15.25 NMAC; STATEWIDE.**

WildEarth Guardians proposes that the Commission amend its rules to prohibit the use of toxic perfluoroalkyl and polyfluoroalkyl substances ("PFAS") and undisclosed chemicals in downhole operations.

**Purpose of Proposed Rule.** The proposed rule is intended to prohibit the use of PFAS in order to prevent

the generation of PFAS-contaminated produced water and nondomestic waste. The proposed rule is also intended to update disclosure and reporting rules to ensure compliance with this prohibition so that the division can protect public health and the environment from produced water and nondomestic waste generated by the oil and gas industry.

**Legal Authority.** The proposed rule is authorized by the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, and specifically, Section 70-2-6 (authorizing the Commission to exercise jurisdiction, authority, and control of and over all persons, matters, and things necessary or proper to enforce the statute), Sections 70-2-11 (authorizing the Commission to make rules to prevent waste, protect correlative rights, and to do whatever may be reasonably necessary to implement the statute), and Section 70-2-12 (enumerating the powers of the Commission and OCD). The public hearing is governed by the Commission's rule on rulemaking proceedings, 19.15.3 NMAC.

**Availability of Proposed Rule.** The full text of the proposed rule may be obtained from the Commission Clerk Sheila Apodaca at [sheila.apodaca@emnrd.nm.gov](mailto:sheila.apodaca@emnrd.nm.gov) or (505) 699-8358, or can be viewed on the Rules page of the OCD's website at <http://www.emnrd.state.nm.us/OCD/rules.html>.

**Public Hearing.** The Commission will hold a public hearing on the proposed rule at the Commission meeting commencing at 9:00 am on November 12-15, 2024 in person, online, and via telephone. **The meeting will be held at the Wendell Chino Building, 1220 S. Saint Francis Drive, Pecos Hall, First Floor, Santa Fe, New Mexico.** The Commission's public meeting and public hearing may also be accessed by using the following link and/or meeting information:  
Join a Microsoft Teams Meeting by ID | Microsoft Teams; or  
<https://www.microsoft.com/en-us/>

[microsoft-teams/join-a-meeting](https://www.microsoft.com/en-us/join-a-meeting)  
Meeting ID: 266 932 579 58  
Passcode: cGzkrG

#### Dial in by phone

+1 505-312-4308,,812829678# United States, Albuquerque

Phone conference ID: 812 829 678#  
For information on how to participate in the hearing, please contact the Commission Clerk at [occ.hearings@emnrd.nm.gov](mailto:occ.hearings@emnrd.nm.gov) or (505) 699-8358, or visit the Hearings page on the OCD's website at <http://www.emnrd.state.nm.us/OCD/hearings.html>. The hearing may be continued to the following day(s) if not completed.

**Technical Testimony.** Any person intending to present technical testimony at the hearing must file a Pre-Hearing Statement conforming to the requirements of Subsection B of 19.15.3.11 NMAC, no later than 5:00 pm on October 21, 2024. Filing may be accomplished by first class mail to the Commission Clerk, 3<sup>rd</sup> Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, or by electronic mail to [occ.hearings@emnrd.nm.gov](mailto:occ.hearings@emnrd.nm.gov). Any person who intends to present direct technical testimony must file their prehearing statement, with direct written testimony, no later than 5:00 pm on October 21, 2024. Persons presenting technical testimony will be subject to cross-examination on the subject matter of the person's direct testimony by the members of the Commission, the Commission's counsel, or another person who has filed a Pre-Hearing Statement.

**Public Comments.** Any person may present non-technical testimony or make an unsworn statement at the hearing (i.e., public comment), and may offer non-technical exhibits or other written information at the hearing so long as the exhibits are relevant to the proposed rule and do not unduly repeat testimony. Any person who presents sworn, non-technical testimony will be

subject to cross-examination by the Commission, the Commission’s counsel, another person who has filed a Pre-Hearing Statement on the subject matter of the person’s direct testimony, or at the discretion of the hearing officer or Commission, other persons at the hearing. To help facilitate this hearing, persons wishing to present non-technical testimony or make an unsworn statement or public comment at the hearing are strongly encouraged to contact the Commission Clerk Sheila Apodaca at [sheila.apodaca@emnrd.nm.gov](mailto:sheila.apodaca@emnrd.nm.gov) or (505) 699-8358, prior to the hearing so that a list of public commenters may be prepared in advance; however, at the close of oral public comment, the Commission shall open the virtual floor to any person who wishes to offer non-technical testimony or other public comment or submit non-technical information relevant to the proceedings.

**Pre-Hearing Submission of Non-technical Comments.** Any person may submit non-technical written or electronic comments on the proposed rule prior to the hearing no later than 5:00 pm on November 12, 2024, unless extended by the Commission or the Chair of the Commission, by first class or electronic mail to the Commission Clerk, 3<sup>rd</sup> Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, or [occ.hearing@emnrd.nm.gov](mailto:occ.hearing@emnrd.nm.gov).

**Persons with Disabilities.** 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, including a summary or other accessible form of document, please contact the Commission Clerk Sheila Apodaca at [sheila.apodaca@emnrd.nm.gov](mailto:sheila.apodaca@emnrd.nm.gov) or (505) 699-8358, or through the New Mexico Relay Network at 1-800-659-1779, no later than November 1, 2024.

**Technical Information.** Technical information that may be provided

through Pre-Hearing Statements and written technical testimony will be made publicly available on the OCD Imaging, Case File Search portal on the division’s website at <http://ocdimage.emnrd.state.nm.us/imaging/CaseFileCriteria.aspx>, and may be accessed by searching for Case File No. 23580.

**ENVIRONMENT  
DEPARTMENT  
NEW MEXICO WATER  
QUALITY CONTROL  
COMMISSION**

**NOTICE OF PUBLIC  
RULEMAKING HEARING**

The New Mexico Water Quality Control Commission (Commission) will hold a public hearing on December 10, 2024, at 9:00 a.m. in Room 321 of the State Capitol Building, 490 Old Santa Fe Trail, Santa Fe, New Mexico 87501. A virtual participation option will be provided via WebEx with meeting links and details provided in the events calendar at <https://www.env.nm.gov/events-calendar>. The hearing may continue thereafter as necessary at the Commission’s discretion.

The purpose of the hearing is to consider the matter of WQCC 24-46 (R) to amend Subsection D of 20.6.4.9 NMAC, *Standards for Interstate and Intrastate Surface Waters*, to designate nominated waters as Outstanding National Resource Waters (ONRW). The waters qualify for ONRW designation as significant attributes of a Special Trout Water; a designated wild and scenic river; a national or state park, monument, or wildlife refuge; or a designated Wilderness area. ONRWs are entitled to the highest protection from pollution under the Commission’s antidegradation policy and surface water quality standards at 20.6.4 NMAC. The proponent of this regulatory adoption and revision is the New Mexico Environment Department (NMED).

The hearing will be conducted in accordance with the Water Quality Act, Sections 74-6-4 and 74-6-6 NMSA 1978, the State Rules Act, Section 14-4-5.3 NMSA 1978, 20.1.6 NMAC, *Rulemaking Procedures – Water Quality Control Commission*, and other applicable procedures and authorities. The Commission may make a decision on the proposed amended rule at the conclusion of the hearing, or they may convene a meeting after the hearing to consider action on the proposal.

All interested persons will be given reasonable opportunity at the hearing to submit data, views or arguments orally or in writing, and examine witnesses testifying at the hearing. Persons wishing to present technical testimony must file with the Commission a written notice of intent to do so. The notice of intent shall:

- (1) identify the person for whom the witness(es) will testify;
- (2) identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational and work background;
- (3) include a copy of the direct testimony of each technical witness in narrative form, and state the estimated duration of the direct oral testimony of that witness;
- (4) include the text of any recommended modifications to the proposed regulatory change; and
- (5) list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

Notices of intent for the hearing must be received in the Office of Public Facilitation not later than 5:00 pm on November 20, 2024, and should reference the docket number, WQCC 24-46 (R) and the date of the hearing.

Notices of intent to present technical testimony should be submitted to:

Pamela Jones, Board Administrator  
Water Quality Control Commission  
P.O. Box 5469  
Santa Fe, NM 87502  
(505) 660-4305  
pamela.jones@env.nm.gov

Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer exhibits in connection with that testimony, so long as the exhibit is not unduly repetitious of the testimony.

A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing, or submit it at the hearing. Please submit written comments regarding the proposed amended rule via the Smart Comment Portal at <https://nmed.commentinput.com/comment/search> or by email with reference to WQCC 24-46 (R) to [pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov) by December 9, 2024.

The proposed rule and supporting technical information may be reviewed during regular business hours at the NMED Surface Water Quality Bureau, 1190 St. Frances Dr., Suite N2000, Santa Fe, NM 87505, on NMED's web site at <https://www.env.nm.gov/surface-water-quality/wqs>, on the Commission's docketed matters web site at <https://www.env.nm.gov/opf/docketed-matters>, or by contacting Michael Baca at (505) 470-1652 or [michael.baca1@state.nm.us](mailto:michael.baca1@state.nm.us).

Persons requiring assistance, an interpreter, or any other form of auxiliary aid or service (i.e., reader, amplifier, qualified sign language interpreter, etc.) to attend or participate in the hearing should contact Pamela Jones no later than November 26, 2024, at (505) 660-4305 or [pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov).

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact: Kate Cardenas, NMED Non-Discrimination Coordinator, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855 or [nd.coordinator@env.nm.gov](mailto:nd.coordinator@env.nm.gov). If you believe that you have been discriminated against with respect to a NMED program or activity, please contact the Non-Discrimination Coordinator.

**COMISIÓN DE CONTROL  
DE CALIDAD DEL AGUA DE  
NUEVO MÉXICO**

**AVISO DE AUDIENCIA PÚBLICA  
PARA LA ELABORACIÓN DE  
NORMAS**

La Comisión de Control de Calidad del Agua de Nuevo México (Comisión) llevará a cabo una audiencia pública el 10 de diciembre de 2024 a las 9:00 a. m. en la Sala 321 del Edificio del Capitolio Estatal, 490 Old Santa Fe Trail, Santa Fe, Nuevo México 87501. Se proporcionará una opción de participación virtual a través de WebEx con enlaces a reuniones y detalles proporcionados en el calendario de eventos en <https://www.env.nm.gov/events-calendar>. La audiencia puede continuar después según sea necesario a discreción de la Comisión.

El propósito de la audiencia es considerar el asunto de WQCC 24-46 (R) para enmendar la Subsección D de 20.6.4.9 NMAC, *Estándares para Aguas Superficiales Interestatales y Estatales*, para designar aguas nominadas como Aguas de Recursos Nacionales Sobresalientes (ONRW, por sus siglas en inglés). Las aguas califican para la designación ONRW como atributos significativos de un Agua Especial de Truchas; un río designado salvaje y escénico; un parque nacional o estatal, monumento o refugio de vida silvestre; o un área designada silvestre. Las ONRW tienen derecho a la máxima protección contra la contaminación según la política contra la degradación de la Comisión y los estándares de calidad de las aguas superficiales en 20.6.4 NMAC. El proponente de esta adopción y revisión reglamentaria es el Departamento de Medio Ambiente de Nuevo México (NMED, por sus siglas en inglés).

La audiencia se llevará a cabo de conformidad con la Ley de Calidad del Agua, Secciones 74-6-4 y 74-6-6 NMSA 1978, la Ley de Normas Estatales, Sección 14-4-5.3 NMSA 1978, 20.1.6 NMAC, *Procedimientos de Elaboración de Normas - Comisión de Control de Calidad del Agua* y otros procedimientos y autoridades aplicables. La Comisión puede tomar una decisión sobre la norma enmendada propuesta al concluir la audiencia, o puede convocar una reunión después de la audiencia para considerar la acción sobre la propuesta.

A todas las personas interesadas se les dará una oportunidad razonable en la audiencia para presentar datos, puntos de vista o argumentos en forma oral o por escrito, y para interrogar a los testigos que testifiquen en la audiencia. Las personas que deseen presentar testimonio técnico deben presentar ante la Comisión un aviso por escrito de su intención de hacerlo. El aviso de intención deberá:

- (1) identificar a la persona para la cual testificarán los testigos;



- (2) identificar a cada testigo técnico que la persona pretende presentar y establecer las calificaciones de ese testigo, incluida una descripción de su historial académico y laboral;
- (3) incluir una copia del testimonio directo de cada testigo técnico en forma narrativa y establecer la duración estimada del testimonio oral directo de ese testigo;
- (4) incluir el texto de cualquier modificación recomendada al cambio reglamentario propuesto; y
- (5) enumerar y adjuntar todas las pruebas instrumentales que se prevé que esa persona presente en la audiencia, incluida cualquier declaración propuesta de motivos para la adopción de normas.

Los avisos de intención de asistir a la audiencia deben recibirse en la Oficina de Facilitación Pública a más tardar a las 5:00 p. m. del 20 de noviembre de 2024 y deben hacer referencia al número de expediente, WQCC 24-46 (R) y la fecha de la audiencia. Los avisos de intención de presentar testimonio técnico deben enviarse a:

Pamela Jones, administradora de la Junta  
 Comisión de Control de Calidad del Agua  
 P.O. Box 5469  
 Santa Fe, NM 87502  
 (505) 660-4305  
 pamela.jones@env.nm.gov

Cualquier miembro del público puede testificar en la audiencia. No se requiere aviso previo para presentar un testimonio no técnico en la audiencia. Cualquier miembro de este tipo también puede ofrecer pruebas en relación con ese testimonio, siempre que la prueba no sea indebidamente repetitiva del testimonio.

Todo miembro del público que desee presentar una declaración por escrito para el registro, en lugar de brindar testimonio oral en la audiencia, deberá presentar la declaración por escrito antes de la audiencia o presentarla en la audiencia. Envíe comentarios por escrito sobre la norma enmendada propuesta a través del Portal de comentarios inteligentes en [https://nmed.commentinput.com/comment/search\\_o](https://nmed.commentinput.com/comment/search_o) por correo electrónico con referencia a WQCC 24-46 (R) a [pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov) a más tardar hasta el 9 de diciembre de 2024.

La norma propuesta y la información técnica complementaria se pueden revisar durante el horario normal de oficina en la Oficina de Calidad de Aguas Superficiales de NMED, 1190 St. Francis Dr., Suite N2000, Santa Fe, NM 87505, en el sitio web de NMED en <https://www.env.nm.gov/surface-water-quality/wqs>, en el sitio web de asuntos archivados de la Comisión en <https://www.env.nm.gov/opf/docketed-matters>, o comunicándose con Michael Baca llamando al (505) 470-1652 o por correo electrónico a [michael.baca1@state.nm.us](mailto:michael.baca1@state.nm.us).

Las personas que necesiten asistencia, un intérprete o cualquier otra forma de ayuda o servicio auxiliar (es decir, lector, amplificador, intérprete de lenguaje de señas calificado, etc.) para asistir o participar en la audiencia deben comunicarse con Pamela Jones a más tardar hasta el 26 de noviembre de 2024 llamando al (505) 660-4305 o en [pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov).

El NMED no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, como lo exigen las leyes y regulaciones aplicables. NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de consultas relacionadas con los requisitos de no discriminación implementados por 40 C.F.R. Partes 5 y 7, incluido el Título VI de la Ley de Derechos

Civiles de 1964, en su forma enmendada; la Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, el Título IX de las Enmiendas de Educación de 1972 y la Sección 13 de las Enmiendas de la Ley Federal de Control de la Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o cualquiera de los programas, políticas o procedimientos de no discriminación de NMED, puede comunicarse con: Kate Cardenas, coordinadora de no discriminación de NMED, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855 o [nd.coordinator@env.nm.gov](mailto:nd.coordinator@env.nm.gov). Si cree que ha sido objeto de discriminación con respecto a un programa o actividad de NMED, comuníquese con la coordinadora de no discriminación.

**ENVIRONMENT  
 DEPARTMENT  
 NEW MEXICO  
 ENVIRONMENTAL  
 IMPROVEMENT BOARD**

**NOTICE OF STATE  
 IMPLEMENTATION PLAN  
 AND RULEMAKING HEARING  
 TO CONSIDER ADOPTION OF  
 PROPOSED REGIONAL HAZE  
 STATE IMPLEMENTATION  
 PLAN REVISION FOR  
 THE SECOND PLANNING  
 PERIOD AND PROPOSED  
 COMPANION RULE 20.2.68  
 NMAC – REGIONAL HAZE  
 REQUIREMENTS, EIB 24-49 (R)**

The New Mexico Environmental Improvement Board (“Board”) will hold a public hearing beginning on December 18, 2024 at 9:00 a.m. to consider EIB 24-49 (R) – In the Matter of Regional Haze State Implementation Plan Revision for the Second Planning Period and Proposed Companion Rule 20.2.68 NMAC – Regional Haze Requirements. The hearing will last as long as required to hear all testimony, evidence, and public comment, and is expected to last approximately three days.

The Board may make a decision on the proposed regional haze state implementation plan (“SIP”) revision and companion rule at the conclusion of the hearing, or the Board may convene a meeting after the hearing to consider action on the proposals.

The hearing will be conducted in a hybrid format to allow for both in-person and virtual participation. The in-person hearing will be held at the New Mexico State Capitol Building (Roundhouse), 490 Old Santa Fe Trail, Santa Fe, New Mexico 87505. Detailed information concerning the time and location and instructions on how to join the hearing virtually is available on the New Mexico Environment Department (“NMED”) events calendar at <https://www.env.nm.gov/events-calendar/>, under the calendar entry corresponding to the hearing start date. From now until the conclusion of the hearing, comments may be submitted via the NMED public comment portal at <https://nmed.commentinput.com?id=fT7HAYPUN> or via electronic or physical mail to Pamela Jones, Board Administrator, P.O. Box 5469, Santa Fe, NM 87502, [pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov).

The purpose of the hearing is for the Board to consider and take possible action on a petition by NMED requesting the Board to adopt New Mexico’s proposed regional haze SIP revision for the second planning period and a new companion rule at 20.2.68 NMAC. The requested action is mandated pursuant to 40 C.F.R. § 51.308(f), which requires states to submit a comprehensive regional haze SIP revision for the second planning period to the U.S. Environmental Protection Agency (“EPA”) by July 31, 2021. The SIP revision, if adopted, will be submitted to the EPA to satisfy federal Clean Air Act requirements at 42 U.S.C. § 7491.

The proposed regional haze SIP revision for the second planning period describes visibility conditions, including the uniform rate of progress, for each of New Mexico’s

Class I areas; provides a long-term strategy addressing regional haze visibility impairment; establishes reasonable progress goals reflecting the visibility conditions that are projected to be achieved by the end of the second planning period as a result of the long-term strategy; provides a robust demonstration that all reasonable measures have been taken to improve visibility at Salt Creek Wilderness Area, the sole Class I area in New Mexico projected to be above the uniform rate of progress glidepath in 2028; and describes New Mexico’s strategy for measuring, characterizing, and reporting of regional haze visibility impairment in Class I areas. It also describes NMED’s coordination and consultation with Federal Land Managers (“FLMs”), EPA, states, Tribes, and other interested parties during the development of the plan and includes a periodic progress report addressing the requirements of 40 C.F.R. § 51.308(g)(1)-(5) for the period since the most recent progress report.

The proposed companion rule at 20.2.68 NMAC establishes enforceable emission limitations, compliance schedules, and other measures that are necessary to make reasonable progress during the second planning period, and provisions to make these measures practicably enforceable, including averaging times, monitoring requirements, and recordkeeping and reporting requirements. Incorporation of the companion rule into the regional haze SIP revision after adoption will make the emission limitations and other measures in the rule federally enforceable at the time EPA grants final approval of the SIP revision.

As required by 42 U.S.C. § 7491(d) and 40 C.F.R. § 51.308(i)(2), NMED consulted with the appropriate FLMs on the proposed regional haze SIP revision and provided them the opportunity to discuss their assessment of, and recommendations on the development and implementation of strategies

to address, visibility impairment in Class I areas. The FLMs were highly supportive of NMED’s plan engagement, source selection, control measure evaluations, and long-term strategy. The U.S. National Park Service provided critical comments regarding several aspects of NMED’s evaluation of selective catalytic reduction (“SCR”) for natural gas-fired combustion turbines. NMED carefully considered these comments and revised its SCR analyses and control measure determinations in response.

The proposed regional haze SIP revision, companion rule, and related information, including technical information, may be reviewed on NMED’s Regional Haze Planning web page at <https://www.env.nm.gov/air-quality/reg-haze/>; during regular business hours at the NMED Air Quality Bureau, 525 Camino de los Marquez, Santa Fe, New Mexico 87505; or by contacting Mark Jones at 505-629-6626 or [mark.jones@env.nm.gov](mailto:mark.jones@env.nm.gov).

The hearing will be conducted in accordance with the Board’s rulemaking procedures at 20.1.1 NMAC; the Environmental Improvement Act, Section 74-1-9 NMSA 1978; the Air Quality Control Act, Section 74-2-6 NMSA 1978; and other applicable procedures. The Board is authorized to adopt this rule under its authority to adopt, promulgate and publish rules to prevent or abate air pollution, including rules prescribing air standards within the geographic area of the Board’s jurisdiction. NMSA 1978, § 74-2-5(B)(1). The Board may adopt this rule under its authority to adopt rules that “protect visibility in mandatory class I areas to prevent significant deterioration of air quality and to achieve national ambient air quality standards in nonattainment areas.” NMSA 1978, § 74-2-5(D)(1).

All interested persons will be given a reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally and in

writing; to introduce exhibits; and to examine witnesses. Persons wishing to present technical testimony must file a written Notice of Intent with the Board. The Notice of Intent shall: (1) identify the person for whom the witness(es) will testify; (2) identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational and work background; (3) if the hearing will be conducted at multiple locations, indicate the location or locations at which the witnesses will be present; (4) include a copy of the direct testimony of each technical witness in narrative form; (5) include the text of any recommended modifications to the proposed regulatory change; and (6) list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

Notices of intent to present technical testimony must be received by the Board no later than 5:00 pm on November 27, 2024, and should reference the docket number (EIB 24-49 (R)) and date of the hearing (December 18, 2024). Notices of intent to present technical testimony shall be submitted to Pamela Jones, Board Administrator, P.O. Box 5469, Santa Fe, NM 87502, [pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov).

Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer non-technical exhibits in connection with their testimony, so long as the exhibit is not unduly repetitious of the testimony. A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing or submit it at the hearing.

Persons requiring language interpretation services or having

a disability who need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing should contact Pamela Jones at least 14 days prior to the hearing or as soon as possible at (505) 660-4305 or [pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov). TDD or TDY users please dial 7-1-1 or 800-659-8331 to access this number via Relay New Mexico.

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact Kate Cardenas, Non-Discrimination Coordinator, New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, [nd.coordinator@env.nm.gov](mailto:nd.coordinator@env.nm.gov).

If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above or visit <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> to learn how and where to file a complaint of discrimination.

**AVISO DE LA JUNTA DE MEJORA AMBIENTAL DE NUEVO MÉXICO SOBRE EL PLAN ESTATAL DE IMPLEMENTACIÓN Y LA**

**AUDIENCIA DE ELABORACIÓN DE NORMAS PARA CONSIDERAR LA ADOPCIÓN DE LA REVISIÓN PROPUESTA DEL PLAN ESTATAL DE IMPLEMENTACIÓN DE LA CONTAMINACIÓN ATMOSFÉRICA REGIONAL PARA EL SEGUNDO PERIODO DE PLANIFICACIÓN Y LA NORMA COMPLEMENTARIA PROPUESTA 20.2.68 NMAC - REQUISITOS DE CONTAMINACIÓN ATMOSFÉRICA REGIONAL, EIB 24-49 (R)**

La Junta de Mejora Ambiental de Nuevo México ("Junta") llevará a cabo una audiencia pública a partir del 18 de diciembre de 2024 a las 9:00 a. m. para considerar la EIB 24-49 (R) – En el asunto de la Revisión del Plan de Implementación Estatal de Contaminación Atmosférica Regional para el Segundo Período de Planificación y la Norma Complementaria Propuesta 20.2.68 NMAC – Requisitos de la Contaminación Atmosférica Regional. La audiencia durará el tiempo que sea necesario para escuchar todos los testimonios, pruebas y comentarios públicos, y se espera que dure aproximadamente tres días. La Junta puede tomar una decisión sobre la revisión propuesta del plan estatal de implementación ("SIP", por sus siglas en inglés) de la contaminación atmosférica regional y la norma complementaria al concluir la audiencia, o puede convocar una reunión después de la audiencia para considerar las medidas sobre las propuestas.

La audiencia se llevará a cabo en un formato híbrido para permitir la participación tanto en persona como virtual. La audiencia presencial se llevará a cabo en el edificio del Capitolio del Estado de Nuevo México (Roundhouse), 490 Old Santa Fe Trail, Santa Fe, Nuevo México 87505. La información detallada sobre la hora, la ubicación y las instrucciones sobre cómo unirse a la audiencia virtualmente

están disponibles en el calendario de eventos del Departamento de Medio Ambiente de Nuevo México (“NMED”) en <https://www.env.nm.gov/events-calendar/>, bajo la entrada del calendario correspondiente a la fecha de inicio de la audiencia. Desde ahora y hasta la conclusión de la audiencia, los comentarios se pueden enviar a través del portal de comentarios públicos de NMED en <https://nmed.commentinput.com?id=fT7HAYPUN> o por correo electrónico o físico a Pamela Jones, administradora de la Junta, P.O. Box 5469, Santa Fe, NM 87502, [pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov).

El propósito de la audiencia es que la Junta considere y tome posibles medidas sobre la petición del NMED que solicita a la Junta que adopte la revisión propuesta del SIP de contaminación atmosférica regional propuesta por Nuevo México para el segundo período de planificación y una nueva norma complementaria en 20.2.68 NMAC. La acción solicitada es obligatoria de conformidad con 40 C.F.R. § 51.308(f), que requiere que los estados envíen una revisión integral del SIP sobre la contaminación atmosférica regional para el segundo período de planificación a la Agencia de Protección Ambiental de los EE. UU. (“EPA, por sus siglas en inglés”) a más tardar el 31 de julio de 2021. La revisión del SIP, si se adopta, se enviará a la EPA para satisfacer los requisitos federales de la Ley de Aire Limpio en el 42 U.S.C. § 7491.

La revisión propuesta del SIP de contaminación atmosférica regional para el segundo período de planificación describe las condiciones de visibilidad, incluida la tasa uniforme de progreso, para cada una de las áreas de Clase I de Nuevo México; proporciona una estrategia a largo plazo que aborda el deterioro de la visibilidad de la contaminación atmosférica regional; establece objetivos de progreso razonables que reflejan las condiciones de visibilidad que se proyectan lograr para el final del segundo período de planificación

como resultado de la estrategia a largo plazo; proporciona una demostración sólida de que se han tomado todas las medidas razonables para mejorar la visibilidad en Salt Creek Wilderness Area, la única área de Clase I en Nuevo México que se proyecta que estará por encima de la de tasa uniforme de progreso *glidepath* en 2028; y describe la estrategia de Nuevo México para medir, caracterizar e informar el deterioro de la visibilidad de la contaminación atmosférica regional en las áreas de Clase I. También describe la coordinación y consulta de NMED con los administradores de tierras federales (“FLM, por sus siglas en inglés”), la EPA, los estados, las tribus y otras partes interesadas durante el desarrollo del plan e incluye un informe de progreso periódico que aborda los requisitos de 40 C.F.R. § 51.308(g)(1)-(5) para el período desde el informe de progreso más reciente.

La norma complementaria propuesta en 20.2.68 NMAC establece limitaciones de emisiones aplicables, calendarios de cumplimiento y otras medidas que son necesarias para lograr un progreso razonable durante el segundo período de planificación, y disposiciones para hacer que estas medidas sean exigibles en la práctica, incluidos los tiempos promedio, los requisitos de monitoreo y los requisitos de mantenimiento de registros e informes. La incorporación de la norma complementaria en la revisión del SIP regional sobre la contaminación atmosférica después de su adopción hará que las limitaciones de emisiones y otras medidas en la norma sean exigibles a nivel federal en el momento en que la EPA otorgue la aprobación final de la revisión del SIP.

Como lo exigen 42 U.S.C. § 7491(d) y 40 C.F.R. § 51.308(i)(2), el NMED consultó con los FLM correspondientes sobre la revisión propuesta del SIP sobre la contaminación atmosférica regional y les brindó la oportunidad de discutir su evaluación y recomendaciones sobre el desarrollo y la aplicación de

estrategias para abordar el deterioro de la visibilidad en áreas de Clase I. Los FLM apoyaron firmemente la participación del NMED en el plan, la selección de fuentes, las evaluaciones de medidas de control y la estrategia a largo plazo. El Servicio de Parques Nacionales de los EE. UU. brindó comentarios críticos sobre varios aspectos de la evaluación del NMED de la reducción catalítica selectiva (“SCR”, por sus siglas en inglés) para turbinas de combustión a gas natural. El NMED consideró cuidadosamente estos comentarios y revisó sus análisis de SCR y las determinaciones de medidas de control en respuesta.

La revisión propuesta del SIP sobre la contaminación atmosférica regional, la norma complementaria y la información relacionada, incluida la información técnica, se pueden revisar en la página web de Planificación de Contaminación Atmosférica Regional del NMED en <https://www.env.nm.gov/air-quality/reg-haze/>; durante el horario normal de oficina en la Oficina de Calidad del Aire del NMED, 525 Camino de los Marquez, Santa Fe, Nuevo México 87505; o comunicándose con Mark Jones llamando al 505-629-6626 o al correo electrónico [mark.jones@env.nm.gov](mailto:mark.jones@env.nm.gov).

La audiencia se llevará a cabo de acuerdo con los procedimientos de elaboración de normas de la Junta en 20.1.1 NMAC; la Ley de Mejora Ambiental, Sección 74-1-9 NMSA 1978; la Ley de Control de la Calidad del Aire, Sección 74-2-6 NMSA 1978; y otros procedimientos aplicables. La Junta está autorizada a adoptar esta norma en virtud de su autoridad para adoptar, promulgar y publicar normas para prevenir o reducir la contaminación del aire, incluidas las normas que prescriben estándares de aire dentro del área geográfica de la jurisdicción de la Junta. NMSA 1978, § 74-2-5(B)(1). La Junta puede adoptar esta norma en virtud de su autoridad para adoptar normas que “protejan la visibilidad en áreas de clase I obligatorias para prevenir un deterioro significativo de la calidad del aire y lograr estándares nacionales

de calidad del aire ambiente en áreas de incumplimiento”. NMSA 1978, § 74-2-5(D)(1).

A todas las personas interesadas se les dará una oportunidad razonable en la audiencia para presentar evidencia, datos, puntos de vista y argumentos relevantes, oralmente y por escrito; para presentar pruebas instrumentales; y para interrogar a los testigos. Las personas que deseen presentar testimonio técnico deben presentar un Aviso de Intención por escrito ante la Junta. El Aviso de Intención deberá: (1) identificar a la persona para quien el testigo o los testigos testificarán; (2) identificar a cada testigo técnico que la persona pretende presentar y establecer las calificaciones de ese testigo, incluida una descripción de su historial académico y laboral; (3) si la audiencia se lleva a cabo en varias ubicaciones, indicar la ubicación o las ubicaciones en las que estarán presentes los testigos; (4) incluir una copia del testimonio directo de cada testigo técnico en forma narrativa; (5) incluir el texto de cualquier modificación recomendada al cambio regulatorio propuesto; y (6) enumerar y adjuntar todos las pruebas instrumentales que se prevé que esa persona ofrezca en la audiencia, incluida cualquier declaración propuesta de motivos para la adopción de normas.

Los Avisos de Intención de presentar testimonio técnico deben ser recibidos por la Junta a más tardar hasta las 5:00 p. m. del 27 de noviembre de 2024, y deben hacer referencia al número de expediente (EIB 24-49 (R)) y la fecha de la audiencia (18 de diciembre de 2024). Los Avisos de Intención de presentar testimonio técnico se deben enviar a Pamela Jones, administradora de la Junta, P.O. Box 5469, Santa Fe, NM 87502, [pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov).

Cualquier miembro del público puede testificar en la audiencia. No se requiere aviso previo para presentar testimonio no técnico en la audiencia. Asimismo, cualquier miembro del público podrá presentar

pruebas instrumentales no técnicas en relación con su testimonio, siempre que la prueba instrumental no repita indebidamente el testimonio. Cualquier miembro del público que desee presentar una declaración por escrito para el registro, en lugar de brindar testimonio oral en la audiencia, deberá presentar la declaración por escrito antes de la audiencia o presentarla durante la audiencia.

Las personas que requieran servicios de interpretación de idiomas o que tengan una discapacidad y necesiten un lector, amplificador, intérprete de lenguaje de señas calificado o cualquier otra forma de ayuda o servicio auxiliar para asistir o participar en la audiencia deben comunicarse con Pamela Jones al menos 14 días antes de la audiencia o lo antes posible llamando al (505) 660-4305 o por correo electrónico a [pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov). Los usuarios de TDD o TDY deben marcar 7-1-1 o 800-659-8331 para acceder a este número a través de Relay New Mexico.

El NMED no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigen las leyes y normamenciones aplicables. El NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de consultas relacionadas con los requisitos de no discriminación implementados por 40 C.F.R. Partes 5 y 7, incluido el Título VI de la Ley de Derechos Civiles de 1964, en su forma enmendada; la Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, el Título IX de las Enmiendas de Educación de 1972 y la Sección 13 de las Enmiendas de la Ley Federal de Control de la Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o cualquiera de los programas, políticas o procedimientos de no discriminación de NMED, puede comunicarse con Kate Cardenas, coordinadora de no

discriminación, Departamento de Medio Ambiente de Nuevo México, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, [nd.coordinator@env.nm.gov](mailto:nd.coordinator@env.nm.gov).

Si cree que ha sido objeto de discriminación con respecto a un programa o actividad de NMED, puede comunicarse con la coordinadora de no discriminación identificada anteriormente o visitar <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> para obtener información sobre cómo y dónde presentar una queja por discriminación.

## PUBLIC SCHOOL INSURANCE AUTHORITY

### NOTICE OF PUBLIC RULE HEARING AND REGULAR BOARD MEETING

The New Mexico Public Schools Insurance Authority (NMPSIA) will hold a public rule hearing on **November 12, 2024 at 1:00 PM**. The rule hearing will be held in Hearing Room #1 of the Toney Anaya Building located at **2550 Cerrillos Road Santa Fe, NM 87505**.

The meeting will also be held via Zoom for those desiring to attend virtually.  
<https://us02web.zoom.us/j/88916609030?pwd=gBOKkpHLbb1IzfdEb0rblbjb7IrhI8.1>  
Meeting ID: 889 1660 9030  
Passcode: 139692

If the public does not show interest in joining the hearing, either in-person or virtually, the rule hearing will conclude promptly at 1:30 PM and the record will reflect no contest to the proposed rule changes.

The purpose of the rule hearing is to consider proposed amendments to the following rules:

6.50.1 NMAC – General Provisions  
6.50.2 NMAC – Contracts For

Purchase Of Professional Services And Insurance  
 6.50.3 NMAC – Procurement Of Coverage For Risk-Related Exposures, Employee-Benefits And Due Process Reimbursement  
 6.50.4 NMAC – Participation In Authority Coverages By Other Educational Entities  
 6.50.5 NMAC – Determination Of Premiums For Employee-Benefits, Risk-Related And Due Process Reimbursement Coverages  
 6.50.6 NMAC – Notice Of Risk-Related, Employee-Benefits And Due Process Reimbursement Coverages  
 6.50.7 NMAC – Waiver Of Participation In Authority Coverage Offerings By School Districts And Charter Schools-Minimum Benefit And Standards  
 6.50.8 NMAC – Employee-Benefit And Risk-Related Premium Payments  
 6.50.9 NMAC – Coordination Of Benefits Requirements - Duplicate Or Overlapping Benefits Coverages  
 6.50.10 NMAC – Employee Benefit Coverage Enrollment Policy  
 6.50.12 NMAC – Loss Prevention Management System  
 6.50.13 NMAC – Claims Settlement Policy  
 6.50.14 NMAC – Participating Entity Workers’ Compensation Policy Statement  
 6.50.16 NMAC – Administrative Appeal Of Authority Coverage Determinations  
 6.50.17 NMAC – Use Of School Facilities By Private Persons  
 6.50.18 NMAC – Use Of Volunteers In Schools And School Districts

**Summary of Text by Proposed Rule**

The proposed amendments provide for uniformity in the application and changes to the rules of eligibility, consistent naming conventions for added clarity, and cleaning up grammatical errors. Pronouns were amended to allow for gender-neutral compliance. The proposed amendments incorporate updates to the employee Benefits and Risk related coverages.

**Statutory Authority:** Subsection D of Section 22-29-7 NMSA 1978

directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq., NMSA 1978.

No technical information served as a basis for this proposed rule change.

**Public Comment**

Interested parties may provide comment at the public hearing or may submit written comments by mail or e-mail.

Mailing Address

New Mexico Public Schools Insurance Authority  
 410 Old Taos Highway  
 Santa Fe, NM 87501

E-Mail Address

Kaylei.Jones@psia.nm.gov

Written comments must be received no later than **5 p.m. (MDT) on Thursday, November 7, 2024.** NMPSIA encourages the early submission of written comments.

**Public Comment Period**

The public comment period is from **Tuesday, October 8, 2024 to Saturday, November 7, 2024 at 5:00 p.m. (MDT).** NMPSIA will review all feedback received during the public comment period and issue communication regarding a final decision of the proposed rulemaking at a later date.

Copies of the proposed rules may be obtained from Kaylei Jones at Kaylei.Jones@psia.nm.gov during regular business hours or may be accessed through the NMPSIA webpage titled, “Proposed Rule Changes”, at <https://nmpsia.com/index.html> or via the sunshine portal [https://statenm.my.salesforce-sites.com/public/SSP\\_RuleHearingSearchPublic](https://statenm.my.salesforce-sites.com/public/SSP_RuleHearingSearchPublic).

**If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language**

**interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact the office of the the New Mexico Public Schools Insurance Authority at 1-800-548-3724 at least 10 days prior to the meeting.**

**REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION**

**NOTICE OF PUBLIC HEARING**

The Construction Industries Commission will convene a public hearing for amendments to 14.7.2 NMAC - 2021 New Mexico Commercial Building Code and 14.7.3 NMAC - 2021 New Mexico Residential Building Code. The hearing will be held before a hearing officer, at which time any interested person is invited to submit data, views or arguments on the proposed changes, either orally or in writing and to examine witnesses testifying at the hearing. The hearing is scheduled for November 13, 2024.

The purpose of this public rule hearing is to receive public comments regarding the amendments to 14.7.2 NMAC and 14.7.3 NMAC updating the Commercial and Residential building codes.

The statutory authority for this rulemaking is found in the Construction Industries Licensing Act, Subsection F of Section 60-13-9 NMSA 1978.

The hearing is scheduled as follows:

An in-person hearing shall be held on Wednesday, November 13, 2024, at the Regulation and Licensing Department located at 5500 San Antonio Drive NE, Albuquerque, NM, starting at 9:30 a.m. The hearing will remain open until 10:00 a.m. or until participants have an opportunity to make public comment, whichever is longer.

Interested persons may obtain copies of the proposed rule changes by logging onto the Construction Industries Division website (<https://www.rld.nm.gov/construction-industries>) to download the proposed rules or by written request to the Albuquerque CID Office – Regulation and Licensing Department, 5500 San Antonio Drive NE, Albuquerque, NM 87109, attention: Lori Chavez.

You may send written comments to: Construction Industries Division, – Regulation and Licensing Department, 5500 San Antonio Drive NE, Albuquerque, NM 87109, Attention: Public Comments. Written comments may also be faxed to (505) 765-5670 or submitted to Lori Chavez at her email address: [lori.chavez1@rld.nm.gov](mailto:lori.chavez1@rld.nm.gov). All written comments must be received no later than 5:00 p.m., on Tuesday, November 12, 2024. You may also review submitted comments by requesting copies from Lori Chavez at her email address above. Public comments will be posted on the division’s website (<https://www.rld.nm.gov/construction-industries>). Written comments may also be received by the Commission at the in-person hearing until the hearing is closed. All public comment received shall be admitted into the record during the public hearing.

If you require special accommodations to attend the hearing, please notify CID by phone, email, or fax, of such needs as soon as possible to ensure adequate accommodations. Telephone: (505) 469-2728. Email: [Lori.chavez1@rld.nm.gov](mailto:Lori.chavez1@rld.nm.gov); Fax No. (505) 765-5670.

Summary of the Proposed Changes to the Administrative Codes:

14.7.2 2021 New Mexico Commercial Building Code- Delete Section 310.4.1 of the IBC and substitute with the following: Care facilities for 12 or fewer persons receiving care that are within a single-family dwelling are permitted to comply with 14.7.3 NMAC.

The requirements of the automatic sprinkler system will not be required if a primary and secondary exit are provided to a public way.

14.7.3 2021 New Mexico Residential Building Code-Delete Section AM 103.1 of the IRC and substitute with the following: If the occupant load of the residence is more than 12, including those who are residents, during the time of operation of the day care, two exits are required from the ground level story

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### STATE PERSONNEL OFFICE

#### NOTICE OF TERMINATION OF RULEMAKING

The New Mexico State Personnel Board is providing notice to terminate the rulemaking for the repeal and replace of 1.7.8 NMAC – Drug and Alcohol Abuse. The Board has determined that the matter will be revisited upon the issuance of Federal Guidelines as it relates specifically to Fentanyl. Therefore, pursuant to Subsection C of Section 14-4-5 NMSA 1978, the rulemaking noticed on September 12, 2023 is hereby terminated and shall be promulgated at a later date.

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### VETERINARY MEDICINE, BOARD OF

#### NOTICE OF POSTPONEMENT OF PUBLIC RULE HEARING

The New Mexico Board of Veterinary Medicine gives notice that the public rule hearing scheduled for September 11, 2024, has been postponed due to technical difficulties. This rule hearing will be rescheduled. A new Notice of Public Rule Hearing will be posted on the Board of Veterinary Medicine website ([www.bvm.nm.gov](http://www.bvm.nm.gov)), in the New Mexico Register, and on the New Mexico Sunshine Portal. Members of the public who

previously submitted comments will be asked to re-submit them to ensure a complete record.

If you have any questions related to this delay, please reach out to the acting Executive Director at Deborah.Schenk@bvm.nm.gov

#### Statutory Authority:

Section 61-14-7.1 NMSA 1978 directs the Animal Sheltering Committee of the New Mexico Board of Veterinary Medicine to develop criteria for individuals, nonprofit organizations, animal shelters and euthanasia agencies to receive monetary assistance for dog and cat spaying and neutering from the Animal Care and Facility Fund; and recommend to the Board the disbursements of money from the Animal Care and Facility Fund to eligible individuals, nonprofit organizations, animal shelters and euthanasia agencies.

#### Purpose of Proposed Rules:

The purpose of the proposed rules is to establish criteria and procedures for the disbursement of funds from the Animal Care and Facility Fund to eligible recipients for providing spay and neuter services to dogs and cats.

#### Summary of Proposed Rule:

The proposed rule determines the eligibility of all organizations and individuals seeking disbursements from the Animal Care and Facility Fund, outlines the obligations of successful applicants, describes the qualifications for individuals seeking disbursements from the Fund, details possible loss of eligibility for applicants, and provides the procedure for Board approval of disbursements from the Fund.

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**VETERINARY  
MEDICINE, BOARD OF**

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

The New Mexico Board of Veterinary Medicine (“NMBVM”) will hold a public rule hearing on November 20, 2024, at 1:00 p.m. to consider any public comment of the proposed rules listed below. A regular board meeting will immediately follow the public rule hearing.

1. Enactment of rules related to disbursements from the Animal Care and Facility Fund;
2. Amendment of existing rules to adjust certain licensing fees (Parts 2, 6, 7 and 8 of Title 16, Chapter 25 NMAC, and Part 4 of Title 16, Chapter 24 NMAC)
3. Amendment of Subsection B of 16.25.9.9 NMAC (“Minimum Standards”) to change requirements related to emergency services.

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 board meeting will take place at the Regulation and Licensing Department, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, NM 87505.

Copies of the proposed rule may be obtained through the board website at [www.bvm.nm.gov](http://www.bvm.nm.gov) or by contacting the Board Office through the information below:

[www.bvm.nm.gov](http://www.bvm.nm.gov)  
Deborah Schenk, Executive Assistant/  
CPO  
(575) 748-2042  
[deborah.schenk@bvm.nm.gov](mailto:deborah.schenk@bvm.nm.gov)

Written comments will be accepted during the public comment period, up until 5 pm on November 19, 2024, and may be submitted either by email or by postal mail to the following addresses:  
[deborah.schenk@bvm.nm.gov](mailto:deborah.schenk@bvm.nm.gov)

Attn: New Mexico Board of  
Veterinary Medicine  
7301 Jefferson Street NE, Suite H  
Albuquerque, NM 87109

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. 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 be available on the NMBVM website linked above or by contacting the NMBVM staff.

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 Chair.

**Statutory Authority:**

For the proposed rule related to the Animal Care and Facility Fund, Section 61-14-7.1 NMSA 1978 directs the Animal Sheltering Committee of the NMBVM to develop criteria for individuals, nonprofit organizations, animal shelters and euthanasia agencies to receive monetary assistance for dog and cat spaying and neutering from the Animal Care and Facility Fund; and recommend to the NMBVM the disbursements of money from the Animal Care and Facility Fund to eligible individuals, nonprofit organizations, animal shelters and euthanasia agencies.

For the other proposed rules, Subsection F of Section 61-14-5 NMSA 1978, the NMBVM has authority to promulgate rules necessary to establish recognized

standards for the practice of veterinary medicine and to carry out the provisions of the Veterinary Practice Act.

**Purpose of Proposed Rules:**

The purpose of the proposed rule related to the Animal Care and Facility Fund is to establish criteria and procedures for the disbursement of funds from the Animal Care and Facility Fund to eligible recipients for providing spay and neuter services to dogs and cats.

The purpose of the proposed rule amendments related to fees is to adjust certain licensing fees to ensure the NMBVM can meet its financial requirements and to lower two fees to comply with statutory maximums.

The purpose of the proposed amendment to the emergency services requirement in Subsection B of 16.25.9.9 NMAC is to lessen the burden on veterinary facilities while ensuring the public’s awareness of available emergency services.

**Summary of Proposed Rules:**

The proposed rule related to the Animal Care and Facility Fund determines the eligibility of all organizations and individuals seeking disbursements from the Animal Care and Facility Fund, outlines the obligations of successful applicants, describes the qualifications for individuals seeking disbursements from the Fund, details possible loss of eligibility for applicants, and provides the procedure for NMBVM approval of disbursements from the Fund.

The proposed rule amendments related to fees increase most licensing fees for NMBVM-regulated licensees by twenty-five percent. This includes fees for licensing of veterinarians, veterinarian technicians, veterinary facilities, and bovine artificial insemination and pregnancy diagnosis technicians. The proposed rule amendments also lower two fees for euthanasia technician licensure to the statutory cap.



The proposed rule amendment related to emergency services requires veterinary facilities to make information about the nearest emergency services available to the public and eliminates the requirement that veterinary facilities provide emergency services or have a pre-arranged referral to another veterinarian for emergency services.

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

## 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.

### EARLY CHILDHOOD EDUCATION & CARE DEPARTMENT

This is an amendment to 8.9.3  
NMAC, Sections 3 & 15 effective  
10/08/2024

**8.9.3.3 STATUTORY  
AUTHORITY:** Subsection E of  
Section 9-29-6 NMSA 1978; [~~Section  
7-9-121 NMSA 1978;~~] Section 7-9-  
77.2 NMSA 1978.  
[8.9.3.3 NMAC - N, 11/01/2022; A,  
10/08/2024]

**8.9.3.15 PROVIDER  
REQUIREMENTS:** Child  
care providers must abide by all  
department regulations. Child care  
provided for recreational or other  
purposes, or at times other than those  
outlined in the child care placement  
agreement, are paid for by the client.

**A.** All child care  
providers who receive child care  
assistance reimbursements are  
required to be licensed or registered  
by the department and meet and  
maintain compliance with the  
appropriate licensing and registration  
regulations in order to receive  
payment for child care services.  
Beginning July 1, 2012, child care  
programs holding a 1-star license are  
not eligible for child care assistance  
subsidies. The department honors  
properly issued military child care  
licenses to providers located on  
military bases and tribal child care  
licenses properly issued to providers  
located on tribal lands.

**B.** Signed child care  
placement agreements (including  
electronically signed child care  
placement agreements) must be  
returned by hand delivery, mail,  
email, fax, or electronic submission  
to the local child care office within  
30 calendar days of issuance. Failure

to comply may affect payment for  
services and the child care placement  
agreement will be closed. The  
department will provide reasonable  
accommodations to allow a client or  
provider to meet this requirement.

**C.** Child care providers  
collect required copayments from  
clients and provide child care  
according to the terms outlined in the  
child care placement agreement.

**D.** Notification of  
changes: Child care providers must  
notify the department if a child is  
disenrolled or child care has not been  
used for 14 consecutive calendar days  
without notice from the client. If a  
client notifies the provider of non-  
attendance beyond 14 consecutive  
calendar days, the department will  
continue to pay the provider for the  
period of non-attendance, not to  
exceed six weeks following the first  
date of nonattendance.

**(1)** If the  
provider notifies the department of  
the above, the provider will be paid  
through the period of nonattendance,  
not to exceed six weeks.

**(2)**  
If a provider does not notify the  
department of disenrollment or of  
non-use for 14 consecutive calendar  
days, the provider will be paid  
through the last date of attendance.

**(3)** If a child  
was withdrawn from a provider  
because the health, safety, or welfare  
of the child was at risk, as determined  
by a substantiated complaint against  
the child care provider, payment to the  
former provider will be made through  
the last day that care was provided.

**(4)** Providers  
who do not comply with this  
requirement are sanctioned and  
may be subject to recoupment or  
disallowance of payments as provided  
in 8.9.3.21 NMAC.

**E.** Child care providers  
accept the rate the department pays  
for child care and are not allowed to  
charge families receiving child care  
assistance above the department rate  
for the hours listed on the child care  
placement agreement. Failure to  
comply with this requirement may  
result in sanctions.

**(1)** Providers  
are not allowed to charge clients  
a registration/educational fee for  
any child who is receiving child  
care assistance benefits as listed  
under 8.9.3 NMAC. The rates  
set forth below are informed by a  
cost estimation model and include  
expenses for registration/educational  
fees per child and child and family  
activities on behalf of clients under  
8.9.3 NMAC.

**(2)** In  
situations where an incidental cost  
may occur such as field trips, special  
lunches or other similar situations,  
the child care provider is allowed to  
charge the child care assistance family  
the additional cost, provided the  
cost does not exceed that charged to  
private pay families.

**(3)** Child care  
providers are not allowed to charge  
child care assistance families the  
[applicable] gross receipts tax for  
the sum of the child care assistance  
benefit and copayment. Child care  
providers may claim the gross receipts  
tax deduction pursuant to Section 7-9-  
77.2 NMSA 1978, as applicable.

**F.** Under emergency  
circumstances, when ECECD has  
reason to believe that the health,  
safety or welfare of a child is at risk,  
the department may immediately  
suspend or terminate assistance  
payments to a licensed or registered  
provider. The child care resource  
and referral will assist clients with  
choosing another ECECD approved  
provider.

**G.** Owners and licensees may not receive child care subsidy payments to provide care for their own children.

**H.** Providers who are found to have engaged in fraud relating to any state or federal programs, or who have pending charges for or convictions of any criminal charge related to financial practices will not be eligible to participate in the subsidy program.

**I.** Providers must promote the equal access of services for all children and families by developing and implementing policies and procedures that prohibit discrimination based on race, color, religion, sex (including pregnancy, sexual orientation, or gender identity), national origin, disability, or age (40 or older).

[8.9.3.15 NMAC - N, 11/01/2022; A, 8/1/2023; A 10/08/2024]

**EARLY CHILDHOOD EDUCATION & CARE DEPARTMENT**

**This is an amendment to 8.9.4 NMAC, Sections 23, 33 & 42 effective 10/08/2024**

**8.9.4.23 PERSONNEL AND STAFFING REQUIREMENTS FOR CENTERS:**

**A. PERSONNEL AND STAFFING REQUIREMENTS:**

**(1)**

An employer will not allow any employee involved in an incident which would disqualify that employee under the department’s most current version of the background check and employment history verification provisions pursuant to 8.9.6 NMAC to continue to work directly or unsupervised with children.

**(2)** All

educators will demonstrate the ability to perform essential job functions that reasonably ensure the health, safety and welfare of children in care.

**(3)** Educators

who work directly with children and who are counted in the staff/child

ratios must be 18 years of age or older.

**(4)** Clerical,

cooking and maintenance personnel who also care for children and are included in the staff/child ratio will have a designated schedule showing their normal hours in each role.

Educators counted in the staff/child ratios will not have as their primary responsibility cooking, clerical or cleaning duties while caring for children.

**(5)** Volunteers

shall not be counted in the staff/child ratios or left alone with children unless they meet all requirements for an educator.

**(6)** Substitutes

and part-time educators counted in the staff/child ratios will meet the same requirement as regular educators except for training requirements, professional development plan and evaluations. Substitutes, volunteers, and educators routinely employed in a center but working 20 hours or fewer a week, will complete half the required training hours. Such employees working more than 20 hours a week will meet full training requirements and have professional development plans and evaluations. See Paragraph (2) of Subsection B of 8.9.4.23 NMAC for additional training requirements.

**(7)** A director

is responsible for one center only. Directors who are responsible for more than one center on the date these regulations are promulgated shall continue in that capacity. The director or co-director must be on the site of the center for a minimum of fifty percent of the center’s daily core hours of operation. The licensing authority may require proof of the director’s time on-site. See Paragraph (2) of Subsection F of 8.9.4.22 NMAC.

**(8)** During

any absence, the director will assign a person to be in charge and will post a notice stating the assignment.

**(9)** A program

will maintain staff/child ratios and group sizes at all times based on the age of the majority of children in the

group. Children must never be left unattended whether inside or outside the facility. Staff will be onsite, available and responsive to children during all hours of operation. All educators shall perform head counts at regular intervals throughout the day.

**(10)** A center

will have a minimum of two staff members present at all times, with one being an educator. If the center has fewer than seven children, the second staff member may conduct other activities such as cooking, cleaning, or bookkeeping.

**(11)** A center

will keep a list of people who can substitute for any staff member. The list will include the people’s names, telephone numbers, background check, health certificates and record of orientation.

**(12)** Each room

of the center and its premises shall be inspected at closing time on a daily basis to assure the center is secure, free of hazards, and that no child has been left unattended.

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**B. STAFF QUALIFICATIONS AND TRAINING:**

**(1) DIRECTOR QUALIFICATIONS:**

**(a)** Unless exempted under Subparagraph (b) below, a child care center will have a director who is at least 21 years old and meets the requirements outlined in the table below.

Professional Preparation		Experience
Program Administration  The first of three AA-level Early Childhood Program Administration courses in the Early Childhood Program Administration career pathway: <i>Program Management 1</i>  Or  The National Administrator Credential (NAC)*	and	Two-years experience in an early childhood growth and development setting
Child Development/ Early Childhood Education  <i>Child Growth, Development and Learning</i> (one of the AA-level "common core courses")**		
The Provisional AA-Level NM Early Childhood Program Administration Certificate (All three AA-level Early Childhood Program Administration Courses and Practicum: <i>Program Management 1, Effective Program Development for Diverse Learners and Their Families &amp; Practicum, Professional Relationships &amp; Practicum</i> )		
The New Mexico Child Development Certificate (CDC) (Includes the following four courses as well as additional non-coursework requirements: <i>Child Growth, Development and Learning; Health, Safety and Nutrition; Family and Community Collaboration; and Assessment of Children and Evaluation of Programs</i> )		
The Child Development Associate (CDA) certificate		
The Child Care Professional (CCP) certificate		
The New Mexico Early Childhood Program Administration Certificate		
Montessori Teacher Certification		
The New Mexico One-Year Vocational Certificate		
Associate of Arts (AA) or Applied Sciences (AA or AAS) in child development or early childhood education		
<b>Or</b>		
A bachelor's degree or higher in early childhood education or a related field. Related fields include: early childhood special education, family studies, family and consumer sciences, elementary education with early childhood endorsement or any bachelor's degree with a transcript containing two or more Early Childhood courses.	and	One year of experience in an early childhood growth and development setting

\*The NAC and two years of experience in an early childhood growth and development setting will be accepted as sufficient qualification for a director under the following conditions: a) The NAC was received prior to November 30, 2012 and b) the NAC has been maintained and has not expired subsequent to November 30, 2012.

\*\*Directors shall be given until the end of the first full academic semester following their start date to successfully complete this course.

**(b)** Current directors in a licensed center not qualified under these regulations will continue to qualify as directors as long as they continuously work as a director. Current directors having a break in employment of more than one year must meet the requirements as specified in Subparagraph (a) above.

**(2) TRAINING:**

**(a)** The director will develop and document an orientation and training plan for new staff members and volunteers and will provide information on training opportunities. The director will have on file a signed acknowledgment of completion of orientation by employees, volunteers and substitutes as well as the director. New staff members will participate in an orientation before working with children. Initial orientation will include training on the following:

- (i)** scope of services, activities, and the program offered by the center;
- (ii)** emergency first aid procedures, recognition of childhood illness and indicators of child abuse;

(iii) fire prevention measures, emergency evacuation plans and disaster preparedness plans;	(iv) prevention of and response to emergencies due to food or other allergic reactions;	<u>with children regardless of the number of hours employed per week will complete the following, or a three-credit early care and education course or an equivalent approved by the department prior to or within 12 months of employment or the effective date of these regulation amendments. Substitute educators are exempt from this requirement. Training must be approved by ECECD to fulfill the requirements. Approved trainings and substitutions will be listed on ECECD's website.</u>
(iv) review of licensing regulations;	(v) building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;	<u>Learning Environment: How Classroom Arrangement Impacts Behavior;</u>
(v) policies regarding guidance, child abuse and neglect reporting, and handling of complaints;	(vi) prevention of shaken baby syndrome and abusive head trauma;	<u>Challenging Behavior: Reveal the Meaning;</u>
(vi) review of written policies and procedures as defined in Subsection C of 8.9.4.22 NMAC;	(vii) emergency preparedness and response planning for emergencies resulting from natural or man-caused disasters;	<u>Building Strong Relationships with Families;</u>
(vii) center/parental agreement;	(viii) handling and storage of hazardous materials and the appropriate disposal of bio contaminants;	<u>Honoring All Families.</u>
(viii) sanitation procedure;	(ix) precautions in transporting children (if applicable);	(d) Each staff person working directly with children and more than 20 hours per week, including the director, is required to obtain at least 24 hours of training each year. For this purpose, a year begins and ends at the anniversary date of employment. Training must address all seven competency areas within two years. The competency areas are:
(ix) written goals of the program;	(x) first aid and cardiopulmonary resuscitation (CPR) awareness with a pediatric component; [and]	(i) child growth, development and learning;
(x) personnel handbook;	(xi) recognition and reporting of child abuse and neglect; and	(ii) health, safety, nutrition and infection control;
(xi) parent handbook;	(xii) a child development course that addresses all major domains of child development, including cognitive, social emotional, physical development and approach to learning as defined by the federal Child Care and Development Fund ( <a href="https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-98.98.44.b.ii">https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-98.98.44.b.ii</a> ), or approved three-credit early care and education course or an equivalent approved by the department.	(iii) family and community collaboration;
(xii) names and ages of children;	(xiii) <del>new staff members working directly with children regardless of the number of hours per week will complete the 45-hour entry level course or approved three-credit early care and education course or an equivalent approved by the department prior to or within six months of employment. Substitutes are exempt from this requirement.</del>	(iv) developmentally appropriate content;
(xiii) names of parents;	(xiv) <del>new staff members working directly with children regardless of the number of hours per week will complete the 45-hour entry level course or approved three-credit early care and education course or an equivalent approved by the department prior to or within six months of employment. Substitutes are exempt from this requirement.</del>	(v) learning environment and curriculum implementation;
(xiv) tour of the facility; and	(xv) <del>new staff members working directly with children regardless of the number of hours per week will complete the 45-hour entry level course or approved three-credit early care and education course or an equivalent approved by the department prior to or within six months of employment. Substitutes are exempt from this requirement.</del>	(vi) assessment of children and programs; and
(xv) introduction to other staff and parents.	(b) <del>new staff members working directly with children regardless of the number of hours per week will complete the 45-hour entry level course or approved three-credit early care and education course or an equivalent approved by the department prior to or within six months of employment. Substitutes are exempt from this requirement.</del>	(vii) professionalism.
(b) All new [educators] staff members working directly with children regardless of the number of hours employed per week [with] shall complete the following training within three months of their date of hire. Training must be approved by ECECD to fulfill the following requirements. Approved trainings and substitutions will be listed on the ECECD's website. All current educators will have three months to comply with the following training from the date these regulations are promulgated:	(c) <del>new staff members working directly with children regardless of the number of hours per week will complete the 45-hour entry level course or approved three-credit early care and education course or an equivalent approved by the department prior to or within six months of employment. Substitutes are exempt from this requirement.</del>	(e) Training must be provided by individuals who are registered on the New Mexico trainer registry.
(i) prevention and control of infectious diseases (including immunization);		
(ii) prevention of sudden infant death syndrome and use of safe sleeping practices;		
(iii) administration of medication, consistent with standards for parental consent;		

(f) Training provided by center employees, directors, owners, and direct affiliates of the provider shall count for no more than half of the required 24 hours of training each year.

~~(g) On-line training courses shall count for no more than 16 hours each year. If the 45-hour entry level course or its equivalent is taken online, it is exempt from the online training limitation.]~~

~~(h)~~ (g) Online first aid and CPR training will not be approved, unless there is a hands-on component included. In-person requirements may be waived in case of an emergency.

~~(i)~~ (h) Identical trainings shall not be repeated for the purpose of obtaining credit.

~~(j)~~ (i)

Directors may count hours in personnel and business training toward the training requirement.

~~(k)~~ (j) Infant and toddler educators must have at least four hours of training in infant and toddler care annually and within three months of starting work. The four hours will count toward the 24-hour requirement.

~~(l)~~ (k) A center will keep a training log on file for all staff with the employee’s name, date of hire, and position. The log must include date of training, clock hours, competency area, source of training, and training certificate.

~~(m)~~ (l) A college credit hour in a field relevant to the competency areas listed above will be considered equivalent to a minimum of 15 clock hours. Basic level pre-requisites, such as math and English courses, leading to a degree in early childhood development will be considered equivalent to a minimum of 15 clock hours per credit hour.

~~(n)~~ (m) See Paragraph (6) of Subsection A of 8.9.4.23 NMAC for requirements for centers that operate less than 20 hours per week.

C. STAFF/CHILD RATIOS AND GROUP SIZES:

(1) Ratios and group sizes shall be observed as outlined in the tables below:

Centers where children are grouped by age		
Age Group	Adult to child ratio	Maximum group size
Infants	1:6 or fraction of group thereof	12*
Toddlers	1:6 or fraction of group thereof	12*
two years	1:10 or fraction of group thereof	20
three years	1:12 or fraction of group thereof	24
four years	1:12 or fraction of group thereof	24
five years	1:15 or fraction of group thereof	30
six years and older	1:15 or fraction of group thereof	30

Centers Where Age Groups Are Combined		
Age Group	Adult to child ratio	Maximum group size
six weeks through 24 months	1:6 or fraction of group thereof	12*
two through four years	1:12 or fraction of group thereof	24
three through five years	1:14 or fraction of group thereof	28
six years and older	1:15 or fraction of group thereof	30
18 to 24 months with children ages 24 through 35 months	1:6 or fraction of group thereof	12*

\*Providers whose group size exceeds the maximum group size for infants and toddlers indicated above prior to the date these regulations are promulgated shall continue with their current group size as long as ratios are maintained at all times. Providers whose group size meets the maximum group size for infants and toddlers indicated above prior to the date these regulations are promulgated must continue to meet the maximum group size. All new licensed providers and those requesting an infant or toddler capacity change after the date these regulations are promulgated must meet the maximum group size as indicated above.

(2) The number of children who may be in a group and the number of caregivers is specified in Paragraph (1) of Subsection C of 8.9.4.23 NMAC. More than one group of children may occupy a room, provided the following conditions are met:

(a) the room is divided so that different activity/interest areas are well-defined (i.e. creative art, dramatic play, books, manipulatives, blocks, science, and math);

(b) each activity/interest area will have a posted capacity, which may vary according to the activity and size of the space, and will not exceed the group size requirement as specified in Paragraph (1) of Subsection C of 8.9.4.23 NMAC;

(c) placement of cabinets, tables, carpeting, room-dividers, or shelving clearly define the different activity/interest areas;

(d) individual children may freely move from one activity/interest area at their own pace as long as the capacity of any individual interest area is not exceeded;

(e) a single educator is responsible for supervising up to the number of children allowed in the adult to child ratio age grouping specified in Paragraph (1) of Subsection C of 8.9.4.23 NMAC in one or more interest area as long as every child is in direct eyesight of the educator; and

(f) the total number of children in a larger room must not exceed the room capacity based on activity space. For example, if a three to five year old classroom has a capacity of 40, and the maximum group size is 28, the room must be divided by at least two well-defined spaces that include various activity/interest areas and be supervised by at least three educators, who are spread out so that every child is "attended."

(3) Child care facilities not meeting the requirements

as specified in Paragraph (1) of Subsection C of 8.9.4.23 NMAC, must be able to clearly demonstrate the intent of group sizing through written procedures that must be approved by ECECD. The written procedures will address the following:

(a) maintenance of adult to child ratio within the group size in Paragraph (1) of Subsection C of 8.9.4.23 NMAC. to facilitate adult to child interaction and constructive activity among children;

(b) assignment of a group of children to an educator or team of educators; and

(c) demonstrate how the educators will meet the needs of all children in the assigned classroom and account for all children at all times.

(4) A center will schedule staff to minimize the number of primary educators a child has during the day and the week. A child will have no more than three primary, consecutive educators in any day including educators in the early morning and late afternoon. Each child must have an educator who is aware of details of the child's habits, interests, and any special concerns.

(5) The same educator who cares for the children under age two years will supervise those children when they play with children over two years. [8.9.4.23 NMAC - N, 11/01/2022; A, 10/08/2024]

### 8.9.4.33 PERSONNEL AND STAFFING

#### REQUIREMENTS FOR HOMES:

##### A. PERSONNEL AND STAFFING REQUIREMENTS:

(1) A licensee will not allow any staff member, including the licensee, or any other adult living in the home involved in an incident which would disqualify that staff member or other adult under the department's most current version of the background check and employment history verification provisions pursuant to 8.8.3 NMAC to continue to work directly or

unsupervised with children or to reside in the home.

(2) All staff members will demonstrate the ability to perform essential job functions that reasonably ensure the health, safety and welfare of children in care.

(3) Educators who work directly with children and who are counted in the staff/child ratios must be 18 years of age or older.

(4) The licensee shall be in the licensed child care home during at least seventy-five percent of the home's core hours of operation.

(5) Substitutes, volunteers and part time second educators counted in the staff/child ratios shall meet the same requirements as regular staff members, except for training requirements. Substitutes and part time second educators routinely employed in the home but working 20 hours or less a week shall complete half the required training hours. Such employees working more than 20 hours per week shall complete all required training hours. The primary educator in a licensed home shall complete all required training hours, regardless of the number of hours worked.

(6) A home licensed to provide care for six or fewer children will have at least one educator in the home at all times. A home licensed to provide care for more than two children under the age of two will have at least two educators in the home at all times.

(7) A home licensed for seven to 12 children will have at least two educators at the home when more than six children are present or when more than two children under the age of two are present.

(8) Children will never be left unattended. An educator will be with the children at all times whether activities are inside or outside of the home. Educators will be onsite, available and responsive to children during all hours of operation. Providers and

secondary caregivers shall perform head counts at regular intervals throughout the day.

**B. STAFF QUALIFICATIONS AND TRAINING:**

**(1)** All new ~~educators~~ staff members working directly with children regardless of the number of hours employed per week ~~with~~ shall complete the following training within three months of their date of hire. Training must be approved to fulfill the following requirements. Approved trainings and substitutions will be listed on the ECECD's website.

All current educators will have three months to comply with the following training from the date these regulations are promulgated:

- (a)** prevention and control of infectious diseases (including immunization);
- (b)** prevention of sudden infant death syndrome and use of safe sleeping practices;
- (c)** administration of medication, consistent with standards for parental consent;
- (d)** prevention of and response to emergencies due to food or other allergic reactions;
- (e)** building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
- (f)** prevention of shaken baby syndrome and abusive head trauma;
- (g)** emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused;
- (h)** handling and storage of hazardous materials and the appropriate disposal of bio contaminants;
- (i)** precautions in transporting children (if applicable);

**(j)** first aid and cardiopulmonary resuscitation (CPR) awareness with a pediatric component; ~~and~~

**(k)** recognition and reporting of child abuse and neglect; and

**(l)** a child development course that addresses all major domains of child development, including cognitive, social emotional, physical development and approach to learning as defined by the federal Child Care and Development Fund (<https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-98.98.44.b.ii>), or approved three-credit early care and education course or an equivalent approved by the department.

**(2)** New staff members working directly with children regardless of the number of hours employed per week will complete the following, or a three-credit early care and education course or an equivalent approved by the department prior to or within twelve months of employment or the effective date of these regulation amendments. Substitute educators are exempt from this requirement. Training must be approved by ECECD to fulfill the requirements. Approved trainings and substitutions will be listed on ECECD's website.

**(a)** Learning Environment: How Classroom Arrangement Impacts Behavior;

**(b)** Challenging Behavior: Reveal the Meaning;

**(c)** Building Strong Relationships with Families;

**(d)** Honoring All Families.

~~(2)~~ **(3)** A home will keep a training log on file including the date of the training, name of educator, hours earned, subject/competency area, source of training, and training certificates.

~~(3)~~ **(4)** Educators working for a home will receive at least 12 documented hours of training during each year, including six hours

in child growth and development and three hours in health, safety, nutrition, and infection control. The three remaining training hours must be within the seven competency areas. The competency areas are:

- (a)** child growth, development and learning;
- (b)** health, safety, nutrition and infection control;
- (c)** family and community collaboration;
- (d)** developmentally appropriate content;
- (e)** learning environment and curriculum implementation;
- (f)** assessment of children and programs; and
- (g)** professionalism.

~~(4)~~ **(5)** An educator cannot count more than three hours in first aid or CPR training toward the total hours required. Online first aid and CPR training will not be approved unless there is a hands-on component included. In-person requirements may be waived in case of an emergency. For this purpose, a year begins and ends at the anniversary date of employment. Training must be provided by individuals who are registered on the New Mexico trainer registry. ~~[On-line training courses shall count for no more than eight hours each year. If the 45-hour entry-level course or its equivalent is taken online, it is exempt from the online training limitation.]~~ Identical trainings shall not be repeated for the purpose of obtaining credit.

~~(5)~~ **(6)** Infant and toddler educators must have at least two hours of training in infant and toddler care within six months of starting work. The two hours will count toward the 12-hour requirement in Paragraph (3).

~~(6)~~ **(7)** The primary educator will complete the 45-hour entry-level course or approved three-credit early care and education course or an equivalent



approved by the department prior to or within six months of employment.]

(7) A home must have all educators certified in first aid and cardio-pulmonary resuscitation (CPR) with a pediatric component. Staff shall obtain the first aid and CPR certification within three months of being hired. All staff shall maintain current first aid and CPR certification. Prior to licensure, the primary caregiver shall have CPR certification. [8.9.4.33 NMAC - N, 11/01/2022; A, 10/08/2024]

**8.9.4.42 PERSONNEL AND STAFFING REQUIREMENTS FOR OUT OF SCHOOL TIME CARE:**

**A. PERSONNEL AND STAFFING REQUIREMENTS:**

(1) An employer will not allow any employee involved in an incident which would disqualify that employee under the department’s most current version of the background check and employment history verification provisions pursuant to 8.9.6 NMAC to continue to work directly or unsupervised with children;

(2) All educators will demonstrate the ability to perform essential job functions that reasonably ensure the health, safety and welfare of children in care.

(3) Educators (staff members) who work directly with children and who are counted in the staff/child ratios must be 18 years of age or older.

(4) Clerical, cooking and maintenance personnel included in the staff/child ratio will have a designated schedule showing their normal hours in each role. Educators counted in the staff/child ratios will not be responsible for cooking, clerical or cleaning duties while caring for children.

(5) Substitutes, volunteers and part-time educators counted in the staff/child ratios will meet the same requirement as regular staff members except for training requirements. Substitutes and educators routinely employed

in a facility but working 20 hours or fewer a week, will complete half the required training hours. Such employees working more than 20 hours a week will meet full training requirements. See Paragraph (4) of Subsection C of 8.9.4.42 NMAC for additional training requirements.

(6) Each site will have a site director. The site director or a designated co-director who meets the same qualifications as the site director will be on site 50 percent of the program’s core hours of operation.

(7) A program will maintain staff/child ratios and group sizes at all times. Children must never be left unattended whether inside or outside the facility. .

(8) A program will have a minimum of two staff members present at all times, with one being an educator. If the program has less than seven children, the second staff member may be engaged in other duties.

(9) Each site will have one adult for every 15 children age five or older. Maximum group size of 30.

(10) The number of children who may be in a group and the number of caregivers is specified in Paragraph (9) of Subsection A of 8.9.4.42 NMAC. More than one group of children may occupy a room, provided the following conditions are met:

(a) The room is divided so that different activity/interest areas are well-defined (i.e. art, dramatic play, fine motor, homework, science, math, and quiet homelike area);

(b) Each activity/interest area will have a posted capacity, which may vary according to the activity and size of the space, and will not exceed 30;

(c) Placement of cabinets, tables, carpeting, room-dividers, or shelving clearly define the different activity/interest areas;

(d) Individual children may freely move from one activity/interest area at their

own pace as long as the capacity of any individual interest area is not exceeded;

(e) A single educator is responsible for supervising up to 15 children in one or more interest area as long as every child is in direct eyesight; and

(f) The total number of children in the larger room must not exceed the room capacity based on activity space. For example, if the larger room has a capacity of 90, and the maximum group size is 30, the room must be divided by at least three well-defined activity/interest areas and be supervised by at least six caregivers, who are spread out so that every child is “attended”.

**B. STAFF QUALIFICATIONS:**

(1) Unless exempted under Paragraph (3) below, an out of school time program will have an administrator/director who is at least 21 years old and has proof of a current copy of:

(a) a child development associate (CDA) certificate, a certified child care professional credential (CCP), a Montessori teacher, a national administrator credential (NAC), or an associate of arts or applied science degree in child development or early childhood education and at least two years of experience in an early childhood growth and development setting; a school-age child care growth and development setting; or

(b) a bachelor’s degree or higher in early childhood education or a related field with at least one year of experience in an early childhood growth and development setting or a school-age child care growth and development setting; early childhood growth and development settings include, but are not limited to, licensed or registered family child care programs, licensed center-based early childhood education and development programs, and family support programs.

(2) Every site of an out of school time program will have a site director who has at

least a high school diploma or GED and proof of at least three years of experience working with children.

(3) Program administrators and site directors employed in a licensed program on the date these regulations become effective but who are not qualified will continue to qualify in their positions as long as they continuously work as program administrators or site directors. Current program administrators and site directors having a break in employment of more than one year must meet the requirements.

C. TRAINING:

(1) The program administrator will develop and document an orientation and training plan for new staff members and will provide information on training opportunities. New staff members will participate in an orientation before working with children. Initial orientation will include training on the following areas:

- (a) scope of services and activities offered by the program;
- (b) emergency first aid procedures;
- (c) indicators of child abuse and neglect;
- (d) fire prevention measures, emergency evacuation plan and disaster preparedness plan;
- (e) review of licensing regulations;
- (f) review of policies regarding guidance;
- (g) child abuse and neglect reporting;
- (h) handling of incidents and complaints; and
- (i) health and safety, including infection and injury prevention and control.

(2) All new [educators] staff members working directly with children regardless of the number of hours employed per week [with] shall complete the following training within three

months of their date of hire. Training must be approved to fulfill the following requirements. Approved trainings and substitutions will be listed on the ECECD's website.

All current educators will have three months to comply with the following training from the date these regulations are promulgated:

- (a) prevention and control of infectious diseases (including immunization);
- (b) administration of medication, consistent with standards for parental consent;
- (c) prevention of and response to emergencies due to food or other allergic reactions;
- (d) building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
- (e) abusive head trauma;
- (f) emergency preparedness and response planning for emergencies resulting from natural or man-caused disasters;
- (g) handling and storage of hazardous materials and the appropriate disposal of bio contaminants;
- (h) precautions in transporting children (if applicable);
- (i) first aid and cardiopulmonary resuscitation (CPR) awareness with a pediatric component; [and]
- (j) recognition and reporting of child abuse and neglect; and
- (k) a child development course that addresses all major domains of child development, including cognitive, social emotional, physical development and approach to learning as defined by the federal Child Care and Development Fund (<https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-98.98.44.b.ii>), or approved three-credit early care and

education course or an equivalent approved by the department.

(3) New staff members working directly with children regardless of the number of hours employed per week will complete the following, or a three-credit early care and education course or an equivalent approved by the department prior to or within twelve months of employment or the effective date of these regulation amendments. Substitute educators are exempt from this requirement. Training must be approved by ECECD to fulfill the requirements. Approved trainings and substitutions will be listed on ECECD's website.

(a) Learning Environment: How Classroom Arrangement Impacts Behavior;

(b) Challenging Behavior: Reveal the Meaning;

(c) Building Strong Relationships with Families;

(d) Honoring All Families.

~~(3)~~ (4) A program will keep a training log on file with the employee's name, date of hire and position. The log must also include the date, hours of training, subject, training source and training certificate.

~~(4)~~ (5) All educators are required to obtain at least 24 hours of training each year. For this purpose, a year begins and ends at the anniversary date of employment. Training must address all seven competency areas within two years. Training shall be relevant to school age children. Identical trainings shall not be repeated for the purpose of obtaining credit. The competency areas are:

- (a) child growth, development, and learning;
- (b) health, safety, nutrition, and infection control;
- (c) family and community collaboration;

(d) developmentally appropriate content;  
 (e) learning environment and curriculum implementation;  
 (f) assessment of children and programs; and  
 (g) professionalism.

~~(5)~~ (6) Training must be provided by individuals who have education or experience in the competency area (or areas) in which they train. Employees or relatives of employees who provide training must have prior approval by the department.

~~(6)~~ (7) Program administrators may count hours in personnel and business training toward the training requirement. [8.9.4.42 NMAC - N, 11/01/2022; A, 10/08/2024]

**EARLY CHILDHOOD  
 EDUCATION & CARE  
 DEPARTMENT**  
 This is an amendment to 8.9.5  
 NMAC, Section 10 effective  
 10/08/2024

**8.9.5.10 CAREGIVER  
 REQUIREMENTS:**

A. All child care primary caregivers who receive child care assistance reimbursements are required to be licensed or registered by the department and meet and maintain compliance with the appropriate licensing and registration regulations in order to receive payment for child care services. All registered homes receiving child care assistance subsidies must be enrolled and participate in a CACFP, unless they are exempt.

B. All caregivers, including primary, substitute and emergency caregivers must be at least 18 years of age, and must demonstrate the ability to perform essential job functions that reasonably ensure the health, safety and welfare of children in care.

C. Primary and substitute caregivers must comply

with background check requirements in accordance with the most current provisions of 8.9.6 NMAC governing background checks and employment history verification provisions. A request for a background check must be submitted prior to a substitute caregiver employment. A substitute caregiver must receive a notice of provisional employment prior to beginning employment or obtain a background check in accordance with 8.9.6 NMAC.

D. Emergency caregivers may provide care on unforeseen, unforeseeable and rare occasions for up to eight hours per month on behalf of the primary caregiver. Emergency caregivers must comply with background check requirements, and be certified in first – aid and cardiopulmonary resuscitation (CPR) with a pediatric component. Emergency caregivers may be exempted from all other training requirements. Anyone who provides care repeatedly or in reasonably foreseeable circumstances is a substitute caregiver and must have the required background checks and training.

E. A substitute caregiver is anyone who provides care repeatedly or in reasonably foreseeable circumstances and must have the required background checks and training.

F. In the event care is provided by a substitute or emergency caregiver, all parents/guardians must be notified as promptly as possible.

G. All caregivers are responsible for immediately reporting to the appropriate authorities any signs or symptoms of child abuse or neglect.

H. All new primary and substitute caregivers of registered family child care homes, with the exception of registered family child care food-only homes, must complete the following training within three months of their original date of initial registration. Training must be approved to fulfill the following requirements. Approved trainings and substitutions will be listed on the ECECD’s website. All current

primary and substitute caregivers in a registered family child care home will have three months to comply with the following training from the date these regulations are promulgated:

- (1) prevention and control of infectious diseases (including immunization);
- (2) prevention of sudden infant death syndrome and use of safe sleeping practices;
- (3) administration of medication, consistent with standards for parental consent;
- (4) prevention of and response to emergencies due to food or other allergic reactions;
- (5) building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
- (6) prevention of shaken baby syndrome and abusive head trauma;
- (7) emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused;
- (8) handling and storage of hazardous materials and the appropriate disposal of bio contaminants;
- (9) precautions in transporting children (if applicable);
- (10) first aid and cardiopulmonary resuscitation (CPR) awareness with a pediatric component; and
- (11) recognition and reporting of child abuse and neglect; and
- (12) a child development course that addresses all major domains of child development, including cognitive, social emotional, physical development and approach to learning as defined by the federal Child Care and Development Fund (<https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-98.98.44.b.ii>), or approved three-credit early care and education course or an equivalent approved by the department.

**I.** Primary and substitute caregivers are required to attend six hours of training annually. Training documentation must be maintained for three years and include the caregiver’s name, the date of training, instructor’s name and signature, topic of training and number of hours completed.

**J.** Primary and substitute caregivers caring for infants shall receive two hours of infant or toddler specific training within six-months of registration.

**K.** If a registered home caregiver completes the 18-hour course, it will count toward the six-hour annual training requirement during the year in which the course was completed and the following year, exclusive of training required by CACFP.

**L.** Primary and substitute caregivers are required to obtain current first aid and CPR certification with a pediatric component prior to becoming registered and maintain this certification at all times. On-line first aid and CPR classes are not valid unless there is a hands-on component included. In-person requirements may be waived in case of an emergency. A caregiver cannot count more than four hours in first aid and CPR trainings toward their total hours of annual training requirements.

**M.** Training shall be within the seven competency areas. The competency areas are:

- (1) child growth, development and learning;
- (2) health, safety, nutrition and infection control;
- (3) family and community collaboration;
- (4) developmentally appropriate content;
- (5) learning environment and curriculum implementation;
- (6) assessment of children and programs; and
- (7) professionalism.

[8.9.5.10 NMAC - N, 11/01/2022; A, 10/08/2024]

**REGULATION  
AND LICENSING  
DEPARTMENT  
NURSING HOME  
ADMINISTRATORS BOARD**

**This is an amendment to Section 7, 9, and 10 of 16.13.3 NMAC, Effective 10/08/2024.**

**16.13.3.7 DEFINITIONS:**

**A. “Application for licensure form”** means the application form approved by the board for the candidate to apply for licensure by the board.

**B. “Authorization letter”** means the letter from the examination service authorizing the eligible candidate to sit for the national examination.

**C. “Board approved administrator-in-training program”** means an administrator-in-training program approved by the board, NAB or New Mexico health care association (NMHCA).

**D. “CBT”** refers to computer based test or testing.

**E. “CBT fee”** refers to the computer based testing fee assessed by the CBT vendor.

**F. “CBT vendor”** means the contractor who provides scheduling services, testing center facility, and use of computer equipment to candidates eligible to take the national standard licensing exam in computer based format.

**G. “Computer based test”** means a type of test in computer-based format designed to be administered through the use of a computer as opposed to a written test.

**H. “Computer based testing fee”** means the fee charged to the candidate by the CBT vendor for scheduling services and for use of the vendor’s facility and computer equipment while taking the examination.

**I. “Eligibility list”** means the candidates listed by the service as eligible to take the examination.

**J. “Eligibility period”** means the 60-day period from the

date specified on the authorization letter to the eligible candidate.

**K. “Examination”** means the national licensing examination for licensure as provided by the national association of boards of examiners for long term care administrators (NAB), or its successor.

**L. “Examination application form”** means NAB’s application form for computerized testing, which must be completed on-line through NAB’s website.

**M. “Examination fee”** means the fee for the examination payable to NAB.

**N. “Health services executive”** means a board-based NAB qualification which exceeds this board’s standards to be a Nursing Home Administrator. It is not a license, and it does not grant the holder of this qualification privileges as a Nursing Home Administrator licensee.

**O. “HSE”** is the acronym for Health Services Executive.

**[N:] P. “NAB”** is the acronym for the national association of long-term care administrator boards.

**[O:] Q. “National examination agency”** means the national association of long-term care administrator boards or its successor.

**[P:] R. “Preceptor”** means a licensed nursing home administrator in good standing who gives practical experience to an administrator in training.

**[Q:] S. “Professional examination service”** means national association of long-term care administrator boards contractor for facilitating the development and offering of the examination in computer-based format.

**[R:] T. “Testing center”** means the CBT vendor location(s) where the examination is administered.

[1/10/2000; 16.13.3.7 NMAC - Rn, 16 NMAC 13.3.7, 1/25/2001; A, 2/15/2004; A, 5/26/2016; A, 2/26/2022; 10/08/2024]

**16.13.3.9 DOCUMENTATION AND OTHER REQUIREMENTS:**

Each applicant for licensure by examination must provide the following documents and fees to the board. Applications for licensure are valid for one year from date of receipt, and will be purged from the board's records after that date.

~~A.~~ A completed board-approved application for licensure form [~~signed in the presence of a notary public~~].

~~B.~~ [A recent (within the last year) passport-type photograph of the applicant that the applicant has signed on the back.

~~C.]~~ Complete official transcript(s) leading up to and showing that the applicant has been awarded a baccalaureate degree, and sent directly to the board by the institution(s).

~~D.]~~ C. A statement of any other professional licenses held by the applicant either in New Mexico or in other states, and copies of the license(s).

~~E.]~~ D. Completed verification of licensure form(s) sent directly to the board by the applicant's other state(s) of professional licensure, or verification of current Health Services Executive certification.

~~F.]~~ E. Three letters of reference from persons unrelated to the applicant sent directly to the board by the references.

~~G.]~~ F. A completed, approved release form authorizing the board to conduct a criminal records check.

~~H.]~~ G. The application and licensure fee, payable to the board (See Subsection B of 16.13.2.8 NMAC, "Fees").

~~I.]~~ H. Proof of completion of at least 1000 hours in a board approved administrator in training program or internship program in the form of:

(1) certification of a completion of a board approved administrator in training program from a NAB accredited institution providing the program; or

(2) proof of completion of 1000 hours in a board approved internship verified through a notarized letter between the preceptor and the applicant, and submission of an AIT monthly reports completed by the preceptor and the applicant; or

(3) verification of health services executive certification.

[2/24/1988; 9/18/1992; 2/13/1994; 1/31/1995; 10/31/1995; 11/29/1997; 1/10/2000; 16.13.3.9 NMAC - Rn, 16 NMAC 13.3.9, 1/25/2001; A, 2/15/2004; A, 5/26/2016; A, 2/26/2022; 10/08/2024]

**16.13.3.10 EXAM ELIGIBILITY DETERMINED:**

Upon receipt of the completed licensure application form, all other required documentation, and application fee, the board or its designee will review the application materials, determine the applicant's eligibility to sit for the national licensing examination and notify the applicant in writing of eligibility or ineligibility.

A. Upon finding that the applicant is eligible to take the examination, the board shall notify the eligible candidate, in writing, that his or her application has been approved, and provide the candidate with NAB's website address to apply on-line to take the NAB exam.

B. The service shall notify the board electronically that the candidate has applied to take the examination and the board shall electronically indicate to the service the candidate's eligibility to take the exam.

C. Candidates are encouraged to wait until they receive official written notice from the board that their licensure application has been approved before they apply on-line to take the NAB exam. If the candidate pre-pays the NAB fee(s) and subsequently does not meet the board's licensure requirements and the board does not approve the candidate to take the exam, the fee(s) pre-paid to NAB are non-refundable.

D. An applicant who holds a Health Services Executive certification will have already met the requirements established by NAB and does not need to take the exam.

[10/31/1995; 1/10/2000; 16.13.3.10 NMAC - Rn, 16 NMAC 13.3.10, 1/25/2001; A, 2/15/2004; 10/08/2024]

**REGULATION AND LICENSING DEPARTMENT PSYCHOLOGIST EXAMINERS, BOARD OF**

The New Mexico Board of Psychologist Examiners has approved the repeal of its rule 16.22.21 NMAC - CONDITIONAL PRESCRIBING OR PRESCRIBING PSYCHOLOGISTS: LIMITS OF PRACTICE, filed 11/15/2006, and replaced it with new rule 16.22.21 NMAC - CONDITIONAL PRESCRIBING OR PRESCRIBING PSYCHOLOGISTS: LIMITS OF PRACTICE, adopted 09/18/2024 and effective 10/08/2024.

The New Mexico Board of Psychologist Examiners has approved the repeal of its rule 16.22.24 NMAC - APPLICATION PROCEDURES: TWO YEAR SUPERVISED PRACTICE, , filed 11/15/2006, and replaced it with new rule 16.22.24 NMAC - APPLICATION PROCEDURES: TWO-YEAR SUPERVISED PRACTICE, adopted 09/18/2024 and effective 10/08/2024.

The New Mexico Board of Psychologist Examiners has approved the repeal of its rule 16.22.27 NMAC - CONDITIONAL PRESCRIBING OR PRESCRIBING PSYCHOLOGISTS: FORMULARY, filed 11/15/2006, and replaced it with new rule 16.22.27 NMAC - CONDITIONAL PRESCRIBING OR PRESCRIBING PSYCHOLOGISTS: FORMULARY, adopted 09/18/2024 and effective 10/08/2024.

The New Mexico Board of Psychologist Examiners has

approved the repeal of its rule 16.22.28 NMAC - CONDITIONAL PRESCRIBING OR PRESCRIBING PSYCHOLOGISTS: COMPLAINT PROCEDURES, filed 11/15/2006, and replaced it with new rule 16.22.28 NMAC - CONDITIONAL PRESCRIBING OR PRESCRIBING PSYCHOLOGISTS: COMPLAINT PROCEDURES, adopted 09/18/2024 and effective 10/08/2024.

**REGULATION  
AND LICENSING  
DEPARTMENT  
PSYCHOLOGIST EXAMINERS,  
BOARD OF**

**TITLE 16 OCCUPATIONAL  
AND PROFESSIONAL  
LICENSING  
CHAPTER 22  
PSYCHOLOGISTS AND  
PSYCHOLOGIST ASSOCIATES  
PART 21  
CONDITIONAL PRESCRIBING  
OR PRESCRIBING  
PSYCHOLOGISTS: LIMITS OF  
PRACTICE**

**16.22.21.1 ISSUING**  
**AGENCY:** Regulation and Licensing Department Board of Psychologist Examiners.  
[16.22.21.1 NMAC - Rp, 16.22.21.1 NMAC, 10/08/2024]

**16.22.21.2 SCOPE:** This part applies to the board, licensees, applicants for licensure seeking licenses under prescriptive authority, and the general public.  
[16.22.21.2 NMAC - Rp, 16.22.21.2 NMAC, 10/08/2024]

**16.22.21.3 STATUTORY AUTHORITY:** This part is adopted pursuant to the Professional Psychologist Act, Section 61-9-17.2 NMSA 1978.  
[16.22.21.3 NMAC - Rp, 16.22.21.3 NMAC, 10/08/2024]

**16.22.21.4 DURATION:** Permanent.

[16.22.21.4 NMAC - Rp, 16.22.21.4 NMAC, 10/08/2024]

**16.22.21.5 EFFECTIVE DATE:** October 8, 2024, unless a later date is cited at the end of the section.

[16.22.21.5 NMAC - Rp, 16.22.21.5 NMAC, 10/08/2024]

**16.22.21.6 OBJECTIVE:** The objective of Part 21 is to set forth the provisions, which apply to all of Chapter 22, and all persons affected or regulated by Chapter 22 of Title 16.  
[16.22.21.6 NMAC - Rp, 16.22.21.6 NMAC, 10/08/2024]

**16.22.21.7 DEFINITIONS:**  
**[RESERVED]**  
[Refer to 16.22.1.7 NMAC]

**16.22.21.8 LIMITS OF PRACTICE:**

**A.** A conditional prescribing or prescribing psychologist shall limit practice and supervision to the areas of competence in which proficiency has been gained through education, training or experience.

**B.** A conditional prescribing or prescribing psychologist shall only prescribe drugs and treatments that are consistent with the standards of practice of clinical psychopharmacology.

**C.** Prescriptions transmitted electronically shall comply with state and federal regulation.

**D.** A conditional prescribing or prescribing psychologist may order and review laboratory tests, including imaging, that are consistent with the standards of practice of clinical psychopharmacology.

**E.** Unless in a rural area where an alternative prescriber is not available, a conditional prescribing or prescribing psychologist shall not prescribe medication to any person who is a member of the psychologist's family or household, or with whom the psychologist has an undue conflict of

interest, including a prohibited dual relationship, as defined in 16.22.1 NMAC, of these regulations and the code of conduct adopted by the board. The conditional prescribing or prescribing psychologist will transition such a patient to another provider without a prohibited dual relationship as soon as is feasible.

**F.** A conditional prescribing or prescribing psychologist is subject to provisions of the Professional Psychologist Act and board regulations. A psychologist who violates the Professional Psychologist Act or board regulations is subject to disciplinary action by the board, which may include denial, suspension, or revocation of a conditional prescription certificate or prescription certificate or suspension or revocation of a license to practice psychology.

**G.** A conditional prescribing or prescribing psychologist must comply with all other state and federal laws regulating the administering and prescribing of controlled substances.

**H.** Pursuant to Subsection E of Section 61-9-17.2 NMSA 1978, a conditional prescribing or prescribing psychologist deeming it necessary to prescribe drugs for the management of or protection from side effects that are the result of psychotropic treatment shall have 20 business days from the implementation of treatment for the management of side effects to notify and discuss the management of side effects with the health care practitioner who is overseeing the patient's general medical care. If after 20 business days the conditional prescribing or prescribing psychologist had been unable to reach the health care provider for the purpose of discussion of the side effect treatment, the conditional prescribing or prescribing psychologist shall discontinue the side effect treatment by tapering in a fashion consistent with the standard of care.

[16.22.21.8 NMAC - Rp, 16.22.21.8 NMAC, 10/08/2024]

**HISTORY OF 16.22.21 NMAC:**

**History of Repealed Material:**  
 16.22.21 NMAC, Limits of Practice - Repealed 10/08/2024  
 16.22.21 NMAC, Limits of Practice, filed 09/18/2024 was repealed and replaced by Conditional Prescribing or Prescribing Psychologists: Limits of Practice, effective 10/08/2024.

**REGULATION  
 AND LICENSING  
 DEPARTMENT  
 PSYCHOLOGIST EXAMINERS,  
 BOARD OF**

**TITLE 16 OCCUPATIONAL  
 AND PROFESSIONAL  
 LICENSING  
 CHAPTER 22  
 PSYCHOLOGISTS AND  
 PSYCHOLOGIST ASSOCIATES  
 PART 24 APPLICATION  
 PROCEDURES: TWO-YEAR  
 SUPERVISED PRACTICE**

**16.22.24.1 ISSUING**  
**AGENCY:** Regulation and Licensing Department Board of Psychologist Examiners.  
 [16.22.24.1 NMAC - Rp, 16.22.24.1 NMAC, 10/08/2024]

**16.22.24.2 SCOPE:** This part applies to the board, licensees, applicants for licensure seeking licenses under prescriptive authority, and the general public.  
 [16.22.24.2 NMAC - Rp, 16.22.24.2 NMAC, 10/08/2024]

**16.22.24.3 STATUTORY**  
**AUTHORITY:** This part is adopted pursuant to the Professional Psychologist Act, Section 61-9-17.1 NMSA 1978  
 [16.22.24.3 NMAC - Rp, 16.22.24.3 NMAC, 10/08/2024]

**16.22.24.4 DURATION:**  
 Permanent.  
 [16.22.24.4 NMAC - Rp, 16.22.24.4 NMAC, 10/08/2024]

**16.22.24.5 EFFECTIVE**  
**DATE:** October 8, 2024, unless a

later date is cited at the end of the section.  
 [16.22.24.5 NMAC - Rp, 16.22.24.5 NMAC, 10/08/2024]

**16.22.24.6 OBJECTIVE:** The objective of Part 24 is to set forth the provisions, which apply to all of Chapter 22, and all persons affected or regulated by Chapter 22 of Title 16.  
 [16.22.24.6 NMAC - Rp, 16.22.24.6 NMAC, 10/08/2024]

**16.22.24.7 DEFINITIONS:**  
**[RESERVED]**  
 [Refer to 16.22.1.7 NMAC]

**16.22.24.8 APPLICATION PROCEDURES AND PRESCRIBING PRACTICES FOR CONDITIONAL PRESCRIPTION CERTIFICATE; TWO-YEAR SUPERVISED PRACTICE:**

**A.** An applicant for a conditional prescription certificate shall submit a completed application on the form provided by the board. The applicant is responsible to ensure that the application is complete and that all application fees are paid.

**B.** Application procedure, the applicant shall submit the following:

**(1)** a copy of the degree, certificate or certification of completion of a post-doctoral psychopharmacology training program;

**(2)** certification by the supervising clinician and program training director of successful completion of the 80 hour practicum in clinical assessment and pathophysiology;

**(3)** certification by the supervising clinician and the program-training director of successful completion of the general 400 hour practicum treating a minimum of 100 patients with mental disorders;

**(4)** evidence of passing the psychopharmacology examination for psychologists (PEP);

**(5)** a proposed supervisory plan; on a form provided by the board that is signed by the applicant and the supervising clinician;

**(6)** evidence of proof of insurance or insurance binder as described in 16.22.24.9 NMAC, of these regulations; and

**(7)** a non-refundable application fee-;

**(8)** evidence of completion of a three-hour training in New Mexico rules and laws applicable to prescribing psychologists, as offered by the State Psychologist Association of New Mexico (SPA), or the New Mexico Psychological Association (NMPA).

**C.** Only a complete application will be considered. The board may request additional information from the applicant to verify or confirm the information contained in the application.

**D.** The applicant will be notified in writing within 60 days whether the application, including the supervisory plan, is accepted or rejected. If the application is rejected, the notice shall state the reason for rejection.

[16.22.24.8 NMAC - Rp, 16.22.24.8 NMAC, 10/08/2024]

**16.22.24.9 CONDITIONS OF PRACTICE; MALPRACTICE INSURANCE:**

**A.** The conditional prescribing psychologist shall maintain malpractice insurance covering claims for personal injury arising out of the psychologist's performance of professional services and claims arising out of the psychologist's act, errors or omissions in providing professional services, including prescribing psychotropic medication. Such malpractice insurance coverage shall be no less than one million dollars per occurrence with an aggregate limit of three million dollars.

**B.** The conditional prescribing psychologist shall submit to the board the declaration page of the psychologist's malpractice insurance policy, when instituted, and thereafter on the policy renewal date, as proof of this required insurance upon making application for the conditional prescription certificate, and proof that the policy covers the

prescribing of psychotropic drugs. [16.22.24.9 NMAC - Rp, 16.22.24.9 NMAC, 10/08/2024]

**16.22.24.10 TWO YEAR SUPERVISED PRACTICE:**

**A.** The conditional prescribing psychologist shall be supervised by a supervising clinician knowledgeable of the administration of psychotropic medication. If more than one supervisor is selected, one supervisor shall be designated the primary supervising clinician.

**B.** The board shall approve the supervisory plan before the conditional prescription certificate is issued. The proposed supervisory plan shall include the information contained in 16.22.24 NMAC, and shall be signed by the primary supervising clinician.

**C.** After the board approves the supervisory plan, the conditional prescribing psychologist shall within 30 days submit to the New Mexico medical board the name, address and phone number of the conditional prescribing psychologist and the name(s), address(s) and phone number(s) of the primary supervising clinician and secondary supervising clinician, if any. During the period of supervised practice, the conditional prescribing psychologist shall provide to the New Mexico medical board the name(s), address(s) and phone number(s) of any supervising clinician serving as a substitute or replacement for primary or secondary supervisor(s).

**D.** Each supervisor shall have clinical expertise or training with the patient population that the psychologist with a conditional prescription certificate is evaluating and treating.

**E.** During the initial contact between the patient or the patient’s legal guardian, if any, and the conditional prescribing psychologist, the patient or the patient’s legal guardian shall be informed that the conditional prescribing psychologist has received specialized training in the prescription of psychotropic medication, that the conditional prescribing

psychologist is transitioning to independent psychopharmacological practice, and that the conditional prescribing psychologist is practicing under supervision with respect to the prescribing of psychotropic medication. The name and role of the supervisor shall be provided to the patient or the patient’s legal guardian and informed consent and appropriate releases shall be obtained. The conditional prescribing psychologist shall provide additional information requested by the patient or the patient’s legal guardian concerning the psychologist’s education, training, and experience.

**F.** Supervision by the primary supervising clinician shall be provided on a one-to-one basis for at least four hours a month and should total at least 46 hours of one-to-one supervision per year, unless altered, in accordance with Subsection K of 16.22.24.10 NMAC of these regulations.

**G.** Each supervising clinician is responsible to review only the cases the clinician is supervising. The supervising clinician at all times shall have access to and shall review records relating to the treatment of patients under the clinician’s supervision. The supervising clinician may require face-to-face consultation(s) with the conditional prescribing psychologist.

**H.** If there is more than one supervisor, each supervisor shall inform the other supervisors of any concerns about a conditional prescribing psychologist whom the supervisor is supervising.

**I.** The primary supervising clinician shall contact any secondary supervisor(s) at least every six months to obtain written or verbal progress reports concerning how the conditional prescribing psychologist is performing.

**J.** One-to-one supervision must be provided either face-to-face, telephonically, or by tele-video live communication.

**K.** At any time during the two-year conditional prescribing period the supervising clinician, after consultation with the conditional

prescribing psychologist, may amend the supervisory plan, to increase or decrease the hours of supervision. The board shall approve amendments to the supervisory plan set forth in Subsection M below.

**L.** At any time during the two-year conditional prescribing period a primary supervising clinician shall not supervise more than three conditional prescribing psychologists.

**M.** The supervisory plan described in Paragraph (5) of Subsection B of 16.22.24.8 NMAC shall include the following information and shall be signed by the primary supervising clinician:

- (1) name of the applicant;
- (2) name, address, license number, and area of specialization of the primary supervising clinician and the secondary supervisor(s), if any;
- (3) beginning and ending dates of the two-year supervised practice covered by the plan;
- (4) number of one-on-one supervisory hours per month and by whom;
- (5) setting(s) where supervision will occur and with whom;
- (6) duties and clinical responsibilities of the conditional prescribing psychologist;
- (7) location(s) where supervision will occur and with whom;
- (8) areas in which the primary and secondary supervisor(s), if any, have specialized skills to render competent supervision;
- (9) number of psychologists with conditional prescription certificates that the primary supervising clinician will supervise during this time period;
- (10) the manner in which the conditional prescribing psychologist will be represented to the public including, all written communications and public announcements;
- (11) any direct or indirect financial agreements



between or among the conditional prescribing psychologist and the primary and secondary supervisor(s), if any;

(12) other information necessary to clarify the nature and scope of supervision; and

(13) a statement specifying the manner in which supervision and clinical and professional responsibility will be provided during the supervisor's absence (during vacations or unexpected events that require the supervisor to be absent for any period of time),

N. The board or its designee shall notify the applicant in writing within 60 days of application date, whether the application and the proposed supervisory plan are accepted or rejected. The board or its designee shall notify a conditional prescribing psychologist within 30 days whether a proposed amendment to an approved supervisory plan is accepted or rejected. If rejected, the notice shall state the reasons for rejection.

O. Each supervising clinician shall attest to the contents of a supervision log maintained by the conditional prescribing psychologist.

P. The primary supervising clinician shall also maintain a log of the contacts with the secondary supervisor(s) that includes the dates of contact, and a brief description of the outcome of this contact, including a statement stating whether the conditional prescribing psychologist is progressing satisfactorily.

Q. The supervisor shall review the results of laboratory tests as appropriate and shall be skilled and experienced in such interpretation.

R. The supervising clinician(s) shall hold an active unrestricted license in good standing and appropriate drug enforcement administration certificate and shall be experienced and skilled in the prescription of psychopharmacological drugs.

S. The conditional prescribing psychologist shall see a minimum of 50 separate patients

within the two-year period who are seen for the purpose of evaluation and treatment with psychotropic medication. The duration of the two-year supervisory period shall not be accelerated or reduced.

T. At the end of the two-year period, the primary supervising clinician shall provide an affidavit on a form provided by the board certifying that:

(1) the supervising clinician has not received any financial payments from the applicant except appropriate fees for supervisory services, the supervising clinician is not a member of the applicant's family or household, the supervising clinician is not in a prohibited dual relationship with the applicant and that the supervising clinician has not had an interest that conflicts with the supervising clinician's duties as supervisor;

(2) each supervising clinician discussed with the psychologist the charts and records of patients seen by the psychologist under that supervising clinician's supervision during the two-year period or any extension; and

(3) the conditional prescribing psychologist has successfully completed two years of evaluating for or prescribing psychotropic medication to at least 50 unique patients.

U. The primary supervising clinician in consultation with any secondary supervisor shall evaluate and describe any deficiencies at the end of the two-year period. In the event of documented deficiencies, the primary supervising clinician(s) shall specify in writing the areas in need of remediation and the process and procedures by which these areas are to be remediated.

V. The supervisory period and the conditional prescriptive certificate may be extended with approval of the board if the conditional prescribing psychologist does not successfully complete the two-year conditional period of supervision. A supervisory plan shall be submitted to the board for the proposed extended period

of practice under supervision. The conditional prescribing psychologist shall continue to maintain malpractice insurance.

W. At the end of the extended two-year period, the primary supervising clinician shall provide to the board an affidavit on a form provided by the board certifying: the method by which the supervisor(s) determined that the conditional prescribing psychologist obtained the competencies necessary to prescribe psychotropic medication, supported by a written evaluation addressing areas of remediation.

[16.22.24.10 NMAC - Rp, 16.22.24.10 NMAC, 10/08/2024]

**16.22.24.11 EXPIRED PRACTICE OR CERTIFICATE:**

A. The conditional prescribing psychologist shall notify the board in writing if the primary supervising clinician fails to meet any of the supervisory requirements as set forth in this section and the supervisory plan approved by the board. The notification shall include a clear and detailed description of the supervisor's failure(s) to perform.

B. The conditional prescribing psychologist shall notify the board within 14 days of discovery of any event or circumstance that requires the psychologist to interrupt or cease prescribing practices for any period of time that exceeds 60 days. In no event shall the conditional prescribing psychologist continue prescribing psychotropic medications without an active, responsible primary supervising clinician and valid malpractice insurance.

C. The conditional prescribing certificate shall expire two years after issuance, unless extended in writing as provided in 16.22.24.8 NMAC. A psychologist shall not administer or prescribe drugs or medicines unless the psychologist holds a valid conditional prescription certificate or prescription certificate issued by the board. The board may extend the conditional prescribing certificate up to 60 days pending peer review if the board has received at the board office a complete application

for a prescription certificate no later than 10 days before the expiration of the conditional prescription certificate.

**D.** The psychologist shall not administer or prescribe drugs or medicines after the expiration of the conditional prescription certificate. The psychologist shall notify the board in writing if the psychologist decides not to immediately apply for a prescription certificate upon expiration of the conditional prescription certificate. A psychologist who successfully completes all of the requirements of conditional prescription certificate may apply for a prescription certificate after the expiration of the conditional prescription certificate, so long as the psychologist satisfies all the education, training, and supervision criteria within the time limits established by Section 61-9-17.1 NMSA 1978 and 16.22.23.8 NMAC, of these regulations. The psychologist is solely responsible to obtain patient records for peer review and all other evidence of satisfactory completion of practice under supervision, including the primary supervising clinician affidavit(s). [16.22.24.11 NMAC - Rp, 16.22.24.11 NMAC, 10/08/2024]

**HISTORY OF 16.22.24 NMAC:**

**History of Repealed Material:** 16.22.24 NMAC, Application Procedures: Two-Year Supervised Practice, filed 11/15/2006 was Repealed and Replaced by 16.22.24 NMAC, Application Procedures: Two-Year Supervised Practice, effective 10/08/2024.

**REGULATION AND LICENSING DEPARTMENT PSYCHOLOGIST EXAMINERS, BOARD OF**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING**

**CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 27 CONDITIONAL PRESCRIBING OR PRESCRIBING PSYCHOLOGISTS: FORMULARY**

**16.22.27.1 ISSUING AGENCY:** Regulation and Licensing Department Board of Psychologist Examiners. [16.22.27.1 NMAC - Rp, 16.22.27.1 NMAC, 10/08/2024]

**16.22.27.2 SCOPE:** This part applies to the board, licensees, applicants for licensure seeking licenses under prescriptive authority, and the general public. [16.22.27.2 NMAC - Rp, 16.22.27.2 NMAC, 10/08/2024]

**16.22.27.3 STATUTORY AUTHORITY:** This part is adopted pursuant to the Proto ensure that necessary fessional Psychologist Act, Section 61-9-17.2 and 61-9-3 NMSA 1978. [16.22.27.3 NMAC - Rp, 16.22.27.3 NMAC, 10/08/2024]

**16.22.27.4 DURATION:** Permanent. [16.22.27.4 NMAC - Rp, 16.22.27.4 NMAC, 10/08/2024]

**16.22.27.5 EFFECTIVE DATE:** October 8, 2024 unless a later date is cited at the end of the section. [16.22.27.5 NMAC - Rp, 16.22.27.5 NMAC, 10/08/2024]

**16.22.27.6 OBJECTIVE:** The objective of Part 27 is to set forth the provisions, which apply to all of Chapter 22, and all persons affected or regulated by Chapter 22 of Title 16. [16.22.27.6 NMAC - Rp, 16.22.27.6 NMAC, 10/08/2024]

**16.22.27.7 DEFINITIONS: [RESERVED]** [Refer to 16.22.1.7 NMAC]

**16.22.27.8 FORMULARY:**

**A.** Conditional prescribing or prescribing psychologists shall exercise prescriptive authority using psychotropic medications, as defined in Section 61-9-3 NMSA 1978, within the recognized scope of practice of clinical psychopharmacology including the management of side effects and for which the psychologist has been properly educated and trained.

**B.** As provided by Section 61-9-3 NMSA 1978, of the Act when prescribing psychotropic medication for a patient, a conditional prescribing or prescribing psychologist shall maintain an ongoing collaborative relationship with a health care practitioner who oversees the patient’s general medical care to ensure that necessary medical examinations are conducted and significant changes in the patient’s medical or psychological condition are communicated.

**C.** A conditional prescribing or prescribing psychologist shall not treat:  
**(1)** pain disorders, including Somatic Symptom Disorder With Predominant Pain, with opioid narcotics with the exception of buprenorphine;  
**(2)** orthopedic and gynecological illness or disorders;

**D.** A conditional prescribing or prescribing psychologist shall treat psychopharmacologically only behavioral or mental disorders listed in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American Psychiatric Association or most recent version of the International Classification of Diseases (ICD). [16.22.27.8 NMAC - Rp, 16.22.27.8 NMAC, 10/08/2024]

**HISTORY OF 16.22.27 NMAC:**

**History of Repealed Material:** 16.22.27 NMAC, Formulary - Repealed 11/15/2006. 16.22.27 NMAC, Conditional Prescribing or Prescribing

Psychologists: Formulary, filed 11/15/2006 was repealed and replaced by 16.22.27 NMAC, Conditional Prescribing or Prescribing Psychologists: Formulary, effective 10/08/2024.

**REGULATION  
AND LICENSING  
DEPARTMENT  
PSYCHOLOGIST EXAMINERS,  
BOARD OF**

**TITLE 16 OCCUPATIONAL  
AND PROFESSIONAL  
LICENSING  
CHAPTER 22  
PSYCHOLOGISTS AND  
PSYCHOLOGIST ASSOCIATES  
PART 28 CONDITIONAL  
PRESCRIBING OR  
PRESCRIBING  
PSYCHOLOGISTS: COMPLAINT  
PROCEDURES**

**16.22.28.1 ISSUING**  
**AGENCY:** Regulation and Licensing Department Board of Psychologist Examiners.  
[16.22.28.1 NMAC - Rp, 16.22.28.1 NMAC, 10/08/2024]

**16.22.28.2 SCOPE:** The provisions of Part 28 shall apply to all licensees and applicants for licensure, and the general public.  
[16.22.28.2 NMAC - Rp, 16.22.28.2 NMAC, 10/08/2024]

**16.22.28.3 STATUTORY**  
**AUTHORITY:** This part is adopted pursuant to the Professional Psychologist Act, NMSA 1978 Section 61-9-17.1  
[16.22.28.3 NMAC - Rp, 16.22.28.3 NMAC, 10/08/2024]

**16.22.28.4 DURATION:**  
Permanent.  
[16.22.28.4 NMAC - Rp, 16.22.28.4 NMAC, 10/08/2024]

**16.22.28.5 EFFECTIVE**  
**DATE:** October 8, 2024, unless a later date is cited at the end of the section.

[16.22.28.5 NMAC - Rp, 16.22.28.5 NMAC, 10/08/2024]

**16.22.28.6 OBJECTIVE:** The objective of Part 28 is to set forth the provisions, which apply to all of Chapter 22, and all persons affected or regulated by Chapter 22 of Title 16.  
[16.22.28.6 NMAC - Rp, 16.22.28.6 NMAC, 10/08/2024]

**16.22.28.7 DEFINITIONS:**  
[RESERVED]  
[Refer to 16.22.1.7 NMAC]

**16.22.28.8 COMPLAINT PROCEDURES:**

**A.** Any complaint against a conditional prescribing or prescribing psychologist shall be made according to the complaint procedures described in 16.22.11 NMAC of these board regulations.

**B.** The board shall notify the New Mexico medical board, the board of osteopathic medical examiners, or the board of nursing in writing upon receipt of any complaint that implicates the collaborative relationship between a conditional prescribing or prescribing psychologist and a physician, an osteopathic physician, a nurse practitioner, or a physician's assistant respectively.

**C.** A joint board complaint committee shall be appointed to evaluate any complaint arising out of the collaboration between a conditional prescribing or prescribing psychologist and a health care practitioner. The committee shall evaluate compliance with provisions of the collaboration guidelines as set forth in 16.22.20.8 NMAC. If the committee determines that the complaint does not involve the collaboration guidelines, the committee shall return the complaint to the board for appropriate action.

**D.** A joint board complaint committee will consist at a minimum of the following members, appointed as follows:

(1) two prescribing psychologists, licensed in New Mexico at the unconditional level;

(2) two physicians, recommended by the New Mexico medical board, approved for the joint complaint committee by the chair of the New Mexico board of psychologist examiners.

**E.** Members of a joint board complaint committee shall not be in a pharmacological training program or seeking a prescription certificate, shall not be seeking licensure as a psychologist, physician, or nurse, and shall be a licensee in good standing in the respective profession.

**F.** Members of a joint board complaint committee shall not participate in any complaint review involving the member's family, household or a conflict of interest as defined in 16.22.1.7 NMAC, of these regulations.

**G.** The professional members of a joint board complaint committee may also include:

(1) a licensed physician or osteopathic physician with clinical experience in mental health or psychopharmacology;

(2) a licensed pharmacist or pharmacist clinician with specialized training and experience in psychopharmacology;

(3) a prescribing psychologist;

(4) a nurse practitioner, or physician's assistant with documented specialized training and experience in psychopharmacology.

**H.** Upon receipt and review of a complaint, a joint board complaint committee shall attempt an informal resolution of said complaint consistent with the collaboration guidelines, in order to optimize patient care.

**I.** If an informal resolution cannot be achieved, a joint board complaint committee shall report its findings to the board which will ensure that information about the non-resolved complaint is forwarded to other appropriate boards as required for appropriate action.

**J.** The joint board complaint committee shall review and report on all formal complaints

against a conditional prescribing or prescribing psychologist specific to their management of side effects on a quarterly basis. Anonymous complaints shall not be investigated. [16.22.28.8 NMAC - Rp, 16.22.28.8 NMAC, 10/08/2024]

**HISTORY OF 16.22.28 NMAC:**

**History of Repealed Material:**

16.22.28 NMAC, Prescribing Psychologists: Complaint Procedures - Repealed 11/15/2006  
 16/22/28 NMAC, Conditional Prescribing or Prescribing Psychologists: Complaint Procedures, filed 11/15/2006 – was repealed and replaced by 16/22/28 NMAC, Conditional Prescribing or Prescribing Psychologists: Complaint Procedures, effective 10/08/2024

**REGULATION  
 AND LICENSING  
 DEPARTMENT  
 PSYCHOLOGIST EXAMINERS,  
 BOARD OF**

**This is a short-form amendment to 16.22.1 NMAC, Section 7, effective 10/08/2024.**

**Subsections A through D, F through BBB, DDD through GGG, III through LLL and NNN through CCCC are not shown as no changes were made to those subsections.**

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**E. “Applicant”**

means a person who has completed all educational requirements of the eligibility requirements for licensure and has submitted a complete application to the board. An applicant is seeking approval of [his or her] their application by the board to advance him or her to candidacy for licensure.

\*\*\*

**CCC. “Out-of-state psychologist”** means a psychologist licensed in another state, a territorial possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, the

U.S. Virgin Islands, or a Canadian province who is in good standing in [his or her] their licensing jurisdiction(s).

\*\*\*

**HHH. “Prescription”**

means an order given individually for the person for whom prescribed, either directly from the prescriber to the pharmacist or indirectly by means of a written order signed by the prescriber, and bearing the name and address of the prescriber, [his] their license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue. No person other than a prescriber shall prescribe or write a prescription.

\*\*\*

**MMM. “Clinical**

**Psychopharmacology”** means the [basic and clinical science of drugs-used to treat mental illnesses.] psychological-medical specialty concerned with the study, diagnosis, treatment, and prevention of mental and behavioral disorders, and includes the prophylaxis against or treatment of adverse effects associated with intervention.

\*\*\*

**DDDD. “Doctoral training**

**program”** means the program from which the applicant received [his or her] their doctoral degree to fulfill the educational requirements for licensure (NMAC)

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[16.22.1.7 NMAC - Rp, 16.22.1.7 NMAC, 11/15/2006; A, 03/21/2009; A, 9/16/2010; A, 4/11/2012; A, 04/30/2015; A, 7/1/2018; A, 02/10/2022; A, 10/08/2024]

**REGULATION  
 AND LICENSING  
 DEPARTMENT  
 PSYCHOLOGIST EXAMINERS,  
 BOARD OF**

**This is an amendment to 16.22.22 NMAC, Section 8, effective 10/08/2024.**

**16.22.22.8**

**PSYCHOPHARMACOLOGY (RxP) APPLICATION COMMITTEE:**

**A.** The chair of the board may appoint one or more RxP application committee(s) to review application(s) for conditional prescription and prescription certificates and to make recommendations to the board.

**B.** The RxP application committee will consist of a minimum of three members who shall reside in New Mexico and who shall hold active, unrestricted New Mexico licenses in their respective profession. The committee shall consist of:

- (1) one person appointed by the chair of the board who is experienced in psychopharmacology;
- (2) one person appointed by the chair of the board, in collaboration with the New Mexico medical board, who is an allopathic or osteopathic physician or a nurse practitioner or physicians assistant with clinical experience in mental health or psychopharmacology [and].

~~(3) a public member appointed by the chair of the board:~~

~~C. The professional members appointed by the chair of the board to the committee may include:~~

- ~~(1) a psychologist with a conditional prescribing certificate or a prescription certificate;~~
- ~~(2) a physician or osteopathic physician with clinical experience in mental health or psychopharmacology;~~
- ~~(3) a pharmacist clinician, or certified, or certified nurse practitioner, RNCS or physician’s assistant with specialized training in psychopharmacology; or~~

~~(4) a licensed psychologist.]~~

~~[D:] C.~~ Members of the RxP application committee shall not be in a psychopharmacology training program, and shall not be seeking licensure as a psychologist.

~~[E:] D.~~ Members of the RxP application committee shall not

participate in the review, deliberation, or decision of an application if the applicant is a member of the member’s family or household or if the member has a conflict of interest as defined in 16.22.25 NMAC, of these regulations.

[F.] E. The New Mexico medical board or its designee shall be available upon request to consult with the RxP application committee or the board regarding the applicability of the regulations adopted pursuant to Section 61-9-17.1 NMSA 1978 of the act to a particular application.

[G.] F. The RxP application committee shall provide the board a recommendation to accept or reject an application for a conditional prescription or prescription certificate. A recommendation to reject an application shall state the reasons for the recommendation.

[16.22.22.8 NMAC - Rp, 16.22.22.8 NMAC, 11/15/2006; A, 10/08/2024]

**REGULATION  
AND LICENSING  
DEPARTMENT  
PSYCHOLOGIST EXAMINERS,  
BOARD OF**

**This is an amendment to 16.22.25 NMAC, Section 8, effective 10/08/2024.**

**16.22.25.8 APPLICATION  
FOR PRESCRIPTION  
CERTIFICATE:**

A. An applicant for a prescription certificate shall submit a complete application on a form approved by the board. The applicant is responsible to ensure that the application is complete and timely and that all application fees are paid.

B. The application procedure, shall commence no sooner than 60 days and no later than 10 days prior to expiration of the conditional prescription certificate, whereby the applicant shall submit a non-refundable fee (see fee schedule at 16.22.13.8 of these regulations) established by the board and shall submit evidence satisfactory to the board that the applicant:

(1) has been issued a conditional prescription certificate and has successfully completed or anticipates successfully completing two years of prescribing psychotropic medication, as certified by the primary supervising [independently licensed prescribing] clinician pursuant to 16.22.24 NMAC of these regulations;

(2) holds an active and unrestricted license to practice psychology in New Mexico;

(3) has malpractice insurance as required in 16.22.24 NMAC, of these regulations; the psychologist shall submit to the board a copy of the declaration page of his malpractice insurance policy with the application.

C. ~~[Only a complete application will be considered. The board may request additional information from the applicant to verify or confirm the information in the application.]~~ The application shall also include the following:

(1) a log of patients seen, which shall include: a coded identification number for the patient, patient’s age, gender, diagnosis, whether or not pharmacological intervention was considered or implemented, date of service, and amount of time seen for psychopharmacotherapy or management of care. The log shall contain the name and signature of the supervising clinician;

(2) a log of supervision, which shall include date of supervision, time spent in supervision, topics covered, and the name of the primary or secondary supervising clinician who provided supervision. The log shall be signed by the primary supervising clinician.

D. ~~Only a complete application will be considered. The board may request additional information from the applicant to verify or confirm the information in the application.~~

[16.22.25.8 NMAC - Rp, 16.22.25.8 NMAC, 11/15/2006; A, 02/10/2022; A, 10/08/2024]

**End of Adopted Rules**

# 2024 New Mexico Register

## Submittal Deadlines and Publication Dates

### Volume XXXV, Issues 1-24

<b>Issue</b>	<b>Submittal Deadline</b>	<b>Publication Date</b>
<b>Issue 1</b>	<b>January 4</b>	<b>January 16</b>
<b>Issue 2</b>	<b>January 18</b>	<b>January 30</b>
<b>Issue 3</b>	<b>February 1</b>	<b>February 13</b>
<b>Issue 4</b>	<b>February 15</b>	<b>February 27</b>
<b>Issue 5</b>	<b>February 29</b>	<b>March 12</b>
<b>Issue 6</b>	<b>March 14</b>	<b>March 26</b>
<b>Issue 7</b>	<b>March 28</b>	<b>April 9</b>
<b>Issue 8</b>	<b>April 11</b>	<b>April 23</b>
<b>Issue 9</b>	<b>April 25</b>	<b>May 7</b>
<b>Issue 10</b>	<b>May 9</b>	<b>May 21</b>
<b>Issue 11</b>	<b>May 23</b>	<b>June 11</b>
<b>Issue 12</b>	<b>June 13</b>	<b>June 25</b>
<b>Issue 13</b>	<b>July 8</b>	<b>July 16</b>
<b>Issue 14</b>	<b>July 18</b>	<b>July 30</b>
<b>Issue 15</b>	<b>August 1</b>	<b>August 13</b>
<b>Issue 16</b>	<b>August 15</b>	<b>August 27</b>
<b>Issue 17</b>	<b>August 29</b>	<b>September 10</b>
<b>Issue 18</b>	<b>September 12</b>	<b>September 24</b>
<b>Issue 19</b>	<b>September 26</b>	<b>October 8</b>
<b>Issue 20</b>	<b>October 10</b>	<b>October 22</b>
<b>Issue 21</b>	<b>October 24</b>	<b>November 5</b>
<b>Issue 22</b>	<b>November 7</b>	<b>November 19</b>
<b>Issue 23</b>	<b>November 26</b>	<b>December 10</b>
<b>Issue 24</b>	<b>December 12</b>	<b>December 23</b>

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# 2025 New Mexico Register

## Submittal Deadlines and Publication Dates

### Volume XXXVI, Issues 1-24

<b>Issue</b>	<b>Submittal Deadline</b>	<b>Publication Date</b>
<b>Issue 1</b>	<b>January 3</b>	<b>January 14</b>
<b>Issue 2</b>	<b>January 16</b>	<b>January 28</b>
<b>Issue 3</b>	<b>January 30</b>	<b>February 11</b>
<b>Issue 4</b>	<b>February 13</b>	<b>February 25</b>
<b>Issue 5</b>	<b>February 27</b>	<b>March 11</b>
<b>Issue 6</b>	<b>March 13</b>	<b>March 25</b>
<b>Issue 7</b>	<b>March 27</b>	<b>April 8</b>
<b>Issue 8</b>	<b>April 10</b>	<b>April 22</b>
<b>Issue 9</b>	<b>April 24</b>	<b>May 6</b>
<b>Issue 10</b>	<b>May 8</b>	<b>May 20</b>
<b>Issue 11</b>	<b>May 22</b>	<b>June 10</b>
<b>Issue 12</b>	<b>June 12</b>	<b>June 24</b>
<b>Issue 13</b>	<b>July 26</b>	<b>July 15</b>
<b>Issue 14</b>	<b>July 17</b>	<b>July 29</b>
<b>Issue 15</b>	<b>July 31</b>	<b>August 12</b>
<b>Issue 16</b>	<b>August 14</b>	<b>August 26</b>
<b>Issue 17</b>	<b>August 28</b>	<b>September 9</b>
<b>Issue 18</b>	<b>September 11</b>	<b>September 23</b>
<b>Issue 19</b>	<b>September 25</b>	<b>October 7</b>
<b>Issue 20</b>	<b>October 9</b>	<b>October 21</b>
<b>Issue 21</b>	<b>October 23</b>	<b>November 4</b>
<b>Issue 22</b>	<b>November 6</b>	<b>November 18</b>
<b>Issue 23</b>	<b>November 20</b>	<b>December 9</b>
<b>Issue 24</b>	<b>December 11</b>	<b>December 23</b>

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