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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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October 22, 2024

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Notices of Rulemaking and Proposed Rules

ENVIRONMENT DEPARTMENT WATER QUALITY CONTROL COMMISSION

WATER QUALITY CONTROL COMMISSION PUBLIC NOTICE: NOTICE OF RESCHEDULED PUBLIC HEARING FOR PROPOSED SITE SPECIFIC COPPER CRITERIA FOR STREAM SEGMENTS ON THE PAJARITO PLATEAU

The Water Quality Control Commission (“WQCC”) has cancelled the public hearing scheduled for this matter for October 8, 2024. The WQCC has rescheduled the public hearing for this matter to begin on **January 14, 2025**, immediately following the WQCC’s regularly scheduled meeting, which starts at 9:00 am and continuing thereafter as necessary. The hearing shall be conducted in-person in Room 321 at the New Mexico State Capitol, 411 S. Capitol Street, in Santa Fe, New Mexico and remotely via the WebEx video conferencing platform. The hearing will last as long as required to hear all testimony, evidence, and public comment. Detailed information concerning the time and location and the WebEx link can be found on the New Mexico Environment Department’s (“NMED’s”) Event Calendar at <https://www.env.nm.gov/events-calendar/>. Please visit the WQCC website prior to the hearing for any updates at <https://www.env.nm.gov/opf/water-quality-control-commission/>. The WQCC may make a decision on the proposed regulatory change at the conclusion of the hearing.

The purpose of the public hearing is to consider Triad National Security, LLC’s, Newport News Nuclear BWXT-Los Alamos, LLC’s, and the United States Department Of Energy, Office Of Environmental Management, Los Alamos Field Office’s Petition For Rulemaking To Amend 20.6.4.900.I & J NMAC to add site-specific water quality

criteria for copper for stream segments on the Pajarito Plateau, in accordance with 20.6.4.10.F NMAC. The proposed amendments may be reviewed online at <https://www.env.nm.gov/opf/water-quality-control-commission/>. Technical information that served as a basis for the proposed rule was filed in docket number WQCC 24-31 (R) as exhibits to the Petition and may be viewed online at <https://www.env.nm.gov/opf/docketed-matters/> and may also be obtained from the Petitioners upon request to N3Boutreach@em-la.doe.gov. Persons who wish to review a physical copy of the proposed amendments should contact the WQCC Administrator at the address provided below.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally or in writing; to introduce exhibits; and to examine witnesses.

The WQCC appointed Hearing Officer has issued a revised filing schedule to reflect the new hearing date. Pursuant to 20.1.6.202 NMAC and the Second Pre-Hearing Order issued by the Hearing Officer on September 11, 2024, those wishing to present direct technical testimony must file a written notice of intent to present technical testimony with the WQCC Administrator **on or before 5:00 p.m. Mountain Standard Time on December 20, 2024**. Those wishing to present rebuttal technical testimony must file a written notice of intent to present rebuttal technical testimony with the WQCC Administrator **on or before 5:00 p.m. Mountain Standard Time on January 3, 2025**.

Notices of intent to present technical testimony shall conform to 20.1.6.104 NMAC and reference the docket number, **WQCC 24-31(R)**.

The form and content of the notice of intent to present technical testimony shall:

- Identify the person for whom the witness(es) will testify;
- Identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their education and work background;
- Include a copy of the full written direct or rebuttal testimony of each technical witness in narrative form;
- Include the text of any recommended modifications to the proposed regulatory change; and
- 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 direct and rebuttal technical testimony shall be filed with:

Pamela Jones, WQCC Administrator
New Mexico Environment Department
Harold Runnels Building
P.O. Box 5469
Santa Fe, NM 87502
Telephone: (505) 660-4305
Email: pamela.jones@env.nm.gov

Those wishing to do so may offer non-technical public comment at the hearing in person or remotely via the WebEx platform. The Hearing Officer will hold a **public comment session at 1pm and 5pm on January 14, 2025**. Non-technical written statements may be submitted in lieu of oral testimony at or before the hearing. Written comments regarding the proposed rule may be addressed to Pamela Jones, WQCC Administrator, at the above address, or by entering your comments in the public comment portal at: <https://nmed.commentinput.com?id=MerTf7Zj4> or via email to: pamela.jones@env.nm.gov and should reference docket number **WQCC 24-31(R)**. Pursuant to 20.1.6.203 NMAC, any person may file an entry of appearance as a party. The entry of appearance shall be filed with the WQCC Administrator, at the above

address, no later than **December 20, 2024**.

The hearing will be conducted in accordance with the WQCC Rulemaking Procedures (20.1.6 NMAC); the Water Quality Act, Sections 74-6-1 to -17 NMSA 1978 (1967 as amended through 2019); the State Rules Act, Section 14-4-5.3 NMSA 1978, other applicable procedures and any Procedural Order or Scheduling Order issued by the WQCC or Hearing Officer. These documents are available online at <https://www.env.nm.gov/opf/docketed-matters/> or by contacting the WQCC Administrator at pamela.jones@env.nm.gov.

If any person requires assistance, an interpreter or auxiliary aid to participate in this process, please contact Pamela Jones, WQCC Administrator, at the above address, at least 14 days prior to the hearing date. (TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

STATEMENT OF NON-DISCRIMINATION

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, NMED, 1190 St. Francis

Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502 or (505) 827-2855 or 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 NMED's Non-Discrimination Coordinator identified above.

AVISO PÚBLICO DE LA COMISIÓN DE CONTROL DE CALIDAD DEL AGUA: AVISO DE AUDIENCIA PÚBLICA REPROGRAMADA PARA LA PROPUESTA DE CRITERIOS ESPECÍFICOS DEL SITIO PARA EL COBRE EN LOS SEGMENTOS DE ARROYOS EN LA MESETA DE PAJARITO

La Comisión de Control de Calidad del Agua ("WQCC", por sus siglas en inglés) ha cancelado la audiencia pública programada para este asunto para el 8 de octubre de 2024. La WQCC ha reprogramado la audiencia pública para este asunto para que comience el 14 de enero de 2025, inmediatamente después de la reunión programada regularmente de la WQCC, que comienza a las 9:00 a. m. y continúa después según sea necesario. La audiencia se llevará a cabo en persona en la Sala 321 del Capitolio del Estado de Nuevo México, 411 S. Capitol Street, en Santa Fe, Nuevo México y de forma remota a través de la plataforma de videoconferencia WebEx. La audiencia durará el tiempo que sea necesario para escuchar todos los testimonios, pruebas y comentarios públicos. Puede encontrar información detallada sobre la hora, la ubicación y el enlace de WebEx en el Calendario de eventos del Departamento de Medio Ambiente de Nuevo México ("NMED", por sus siglas en inglés) en <https://www.env.nm.gov/events-calendar/>. Visite el sitio web de WQCC antes de la audiencia para obtener actualizaciones en <https://www.env.nm.gov/opf/water-quality-control-commission/>. La WQCC puede tomar una decisión sobre el cambio regulatorio propuesto al finalizar la audiencia.

El propósito de la audiencia pública es considerar la Petición de Reglamentación para modificar 20.6.4.900.I y J NMAC de Triad National Security, LLC, Newport News Nuclear BWXT-Los Alamos, LLC y la Oficina de Gestión Ambiental del Departamento de Energía de los Estados Unidos, oficina local de Los Alamos, para agregar criterios de calidad del agua específicos del sitio para el cobre en los segmentos de arroyos en la meseta de Pajarito, de acuerdo con 20.6.4.10.F del NMAC. Las enmiendas propuestas se pueden revisar en línea en <https://www.env.nm.gov/opf/water-quality-control-commission/>. La información técnica que sirvió de base para la norma propuesta se presentó en el expediente número WQCC 24-31 (R) como pruebas instrumentales a la petición y se puede consultar en línea en <https://www.env.nm.gov/opf/docketed-matters/> y también se puede obtener de los Peticionarios mediante solicitud a N3Boutreach@em-la.doe.gov. Las personas que deseen revisar una copia impresa de las enmiendas propuestas deben comunicarse con la administradora de la WQCC a la dirección que se proporciona más abajo.

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 o por escrito; para presentar pruebas instrumentales; y para interrogar a los testigos.

El funcionario de audiencias designado por la WQCC ha emitido un calendario de presentación revisado para reflejar la nueva fecha de audiencia. De conformidad con 20.1.6.202 NMAC y la Segunda Orden Previa a la Audiencia emitida por el funcionario de audiencias el 11 de septiembre de 2024, aquellos que deseen presentar un testimonio técnico directo deben presentar un aviso por escrito de intención de presentar un testimonio técnico ante la administradora de la WQCC **a más tardar hasta las 5:00 p. m.,**

hora estándar de la montaña, del 20 de diciembre de 2024. Aquellos que deseen presentar un testimonio técnico de refutación deben presentar un aviso por escrito de intención de presentar un testimonio técnico de refutación ante la administradora de la WQCC **a más tardar hasta las 5:00 p. m., hora estándar de la montaña, del 3 de enero de 2025.**

Los avisos de intención de presentar un testimonio técnico deberán cumplir con 20.1.6.104 NMAC y hacer referencia al número de expediente, **WQCC 24-31(R).**

La forma y contenido del aviso de intención de presentar un testimonio técnico deberá:

- Identificar a la persona(s) para la cual testificarán los testigos;
- Identificar a cada testigo técnico que la persona pretende presentar y establecer las calificaciones de ese testigo, incluida una descripción de su formación y experiencia laboral;
- Incluir una copia del testimonio escrito completo, directo o de refutación, de cada testigo técnico en forma narrativa;
- Incluir el texto de cualquier modificación recomendada al cambio regulatorio propuesto; y
- Enumerar y adjuntar todas las pruebas instrumentales que se prevé que esa persona presente en la audiencia,

Los avisos de intención de presentar un testimonio técnico directo y de refutación se presentarán ante:

Pamela Jones, administradora de WQCC
Departamento de Medio Ambiente de Nuevo México
Harold Runnels Building
P.O. Box 5469
Santa Fe, NM 87502
Teléfono: (505) 660-4305
Correo electrónico: pamela.jones@env.nm.gov

Quienes deseen hacerlo pueden ofrecer comentarios públicos no técnicos en la audiencia en persona

o de forma remota a través de la plataforma WebEx. El funcionario de audiencias llevará a cabo una **sesión de comentarios públicos a la 1:00 p. m. y a las 5:00 p. m. el 14 de enero de 2025.** Se pueden presentar declaraciones no técnicas por escrito en lugar de testimonio oral en la audiencia o antes de ella. Los comentarios por escrito sobre la norma propuesta se pueden dirigir a Pamela Jones, administradora de WQCC, a la dirección indicada anteriormente, o ingresando sus comentarios en el portal de comentarios públicos en: <https://nmec.commentinput.com?id=MerTf7Zj4> o por correo electrónico a: pamela.jones@env.nm.gov y deben hacer referencia al número de expediente **WQCC 24-31(R).** De conformidad con 20.1.6.203 NMAC, cualquier persona puede presentar un registro de comparecencia como parte. El registro de comparecencia deberá presentarse ante la administradora de la WQCC, en la dirección antes mencionada, a más tardar el **20 de diciembre de 2024.**

La audiencia se llevará a cabo de conformidad con los Procedimientos de Reglamentación de la WQCC (20.1.6 NMAC); la Ley de calidad del agua, Secciones 74-6-1 a -17 NMSA 1978 (1967 con sus enmiendas hasta 2019, inclusive); la Ley de Normas Estatales, Sección 14-4-5.3 NMSA 1978, otros procedimientos aplicables y cualquier Orden de Procedimiento u Orden de Programación emitida por la WQCC o el funcionario de audiencias. Estos documentos están disponibles en línea en <https://www.env.nm.gov/opf/docketed-matters/> o comunicándose con la administradora de la WQCC en pamela.jones@env.nm.gov.

Si alguna persona requiere asistencia, un intérprete o un dispositivo auxiliar para participar en este proceso, comuníquese con Pamela Jones, administradora de la WQCC, a la dirección indicada anteriormente, al menos 14 días antes de la fecha de la audiencia. (Los usuarios de TDD o TTY pueden acceder al número a través de la red de retransmisión

de Nuevo México, 1-800-659-1779 (voz); usuarios de TTY: 1-800-659-8331).

DECLARACIÓN DE NO DISCRIMINACIÓN

El NMED no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, tal como lo exigen las leyes y reglamentaciones aplicables. El NMED es responsable de coordinar los esfuerzos de cumplimiento y recibir consultas sobre 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 sobre cualquiera de los programas, políticas o procedimientos de no discriminación de NMED, puede comunicarse con: Kate Cardenas, coordinadora de no discriminación, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502 o (505) 827-2855 o nd.coordinator@env.nm.gov. Si cree que ha sido discriminado con respecto a un programa o actividad de NMED, puede comunicarse con la coordinadora de no discriminación de NMED identificada anteriormente.

GAMING CONTROL BOARD

NOTICE OF PROPOSED RULEMAKING

The Gaming Control Board hereby gives notice that the Board will conduct a public comment hearing on the described rules below.

The public comment hearing will be held on Wednesday, December 4, 2024 from 9:00 am to 12:00 pm

at the Gaming Control Board, 4900 Alameda Blvd. NE, Albuquerque, NM 87113.

The public comment hearing allows members of the public an opportunity to submit data, testimony, and arguments in person on the proposed rule changes detailed below. All comments will be recorded by a court reporter and/or audio recording.

Subsections D and E of 15.1.5.15 NMAC Compulsive Gambling Assistance Plan:

Purpose: Amend rule to make it more current and applicable.

Summary of Full Text: Changing mandate for board to establish minimum standards for a compulsive gambling assistance plan, because it has already been done, to requiring applicants for gaming operator licenses to comply with those requirements. Also capitalizes “Department of Health”

15.1.5.23 NMAC - Application Fees:

Purpose: Amends rule to update requirements concerning applications and application fees.

Summary of Full Text: Updates application fee amounts that have not been changed since the inception of the agency and removes the requirement that the board must immediately issue an order denying an applicant for a gaming license at any time in the application process should they be deemed not qualified.

Subsection D of 15.1.6.7 NMAC - Definitions

Purpose: Repeal current Rule and replace with corrections of spelling/ grammatical errors.

Summary: Changing “building’s” to “buildings” in definition of “premises”.

Subsection B of 15.1.18.9 NMAC - Minimum Standards for Compulsive

Gambling Assistance

Purpose: Repeal and replace current rule to update it.

Summary: Capitalizes “Department of Health” and makes it the responsibility of the Gaming Control Board’s Responsible Gaming Coordinator to evaluate and made a recommendation to the Board as to a Compulsive Gambling Assistance Plan.

Authority: Section 60-2E-7 NMSA 1978 and Section 60-2E-8 NMSA 1978.

Details for Obtaining a Copy of Rule and Submitting Oral or Written Comments:

Copies of the proposed rules are available on the Gaming Control Board’s website at <https://www.gcb.nm.gov/rulemaking/> or can be obtained by emailing GCB-PIO@gcb.nm.gov. The proposed rules are also available on the New Mexico Sunshine Portal. Interested individuals may provide comments at the public hearing. Before the public hearing, written comments may be sent to GCB-PIO@gcb.nm.gov, or by regular mail at Attn: Michelle Pato - proposed rule, The Gaming Control Board, 4900 Alameda Blvd. NE, Albuquerque, NM 87113. The deadline to receive written comment is Wednesday, December 4, 2024. All written public comments will be posted on the website throughout the written comment period at: <https://www.gcb.nm.gov/rulemaking/>.

Any person with a disability who needs a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact (505) 841-9700.

**HEALTH CARE
AUTHORITY
MEDICAL ASSISTANCE
DIVISION
NOTICE OF RULEMAKING**

The New Mexico Health Care Authority (HCA), through the Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) rule 8.200.400, *Medicaid Eligibility-General Recipient Rules-General Medicaid Eligibility*, that went into effect on October 1, 2024. HCA is re-promulgating these sections of the rule in full within six months of issuance of the emergency rule in accordance with the New Mexico State Rules Act.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: October 22, 2024
Hearing Date: November 22, 2024
Adoption Date: Proposed as January 1, 2025
Technical Citations: 42 Code of Federal Regulations (CFR) 435.909(2)(b)

Background

The federal Department of Health and Human Services issued a final rule (federal register/Vol. 88, No. 182) dated September 21, 2023, regarding Medicare Savings Program eligibility determination and enrollment. The final rule requires that by October 1, 2024, states must deem Medicare-enrolled Supplemental Security Income (SSI) Medicaid recipients into the Qualified Medicare Beneficiary (QMB) eligibility group who are entitled to premium-free Part A.

For individuals enrolled in Part B only the Department can at state option automatically deem individuals enrolled in SSI Medicaid eligible for the QMB eligibility group the first month they are both enrolled in Part B and eligible for a Medicare enrollment period bypassing the need for actual or conditional Part A at the Social Security Administration. The Department intends to take up this state option which has been incorporated into this rule change.

The effective date for this option is dependent on the Centers for Medicare and Medicaid (CMS) readiness to accept these enrollments from the Department.

SSI Medicaid beneficiaries deemed into the QMB group would get a twelve (12) month certification period for QMB. At renewal the Department would only need to verify that the individual continues to receive SSI and continued Medicare Part A coverage to renew QMB for another twelve (12) months. The regular renewal process for QMB would apply when an individual loses their SSI Medicaid.

The final federal rule, effective January 1, 2024, limits the state's liability for retroactive Part B premiums for full-benefit Medicaid beneficiaries, including individuals receiving SSI Medicaid, to a period of no greater than thirty-six (36) months prior to the date of the Medicare enrollment determination.

The Department is proposing to amend the rule as follows:

8.200.400 NMAC

Section 1 is being amended to reflect the change from the Human Services Department (HSD) to the Health Care Authority (HCA).

Section 8 is amended to reflect the new mission statement for the Health Care Authority.

Section 15 is amended to add the following new text:

Automatic enrollment of SSI recipients in the QMB group:

A. SSI recipients entitled to premium-free part A: Effective October 1, 2024, the HCA shall automatically deem SSI recipients into QMB the first month they are eligible for SSI Medicaid and entitled to premium-free part A. The start of the part B buy-in coverage is the first month of entitlement to premium-free part A and the QMB eligibility group coverage is the first

day of the following month.

B. SSI recipients enrolled in part B only: Effective upon the centers for medicare and medicaid services (CMS) and HCA systems' capacity, the HCA shall automatically deem individuals enrolled in SSI medicaid eligible for the QMB eligibility group the first month they are both enrolled in part B and eligible for a medicare enrollment period, bypassing the need for actual or conditional part A enrolment at the social security administration.

C. Effective January 1, 2024, the HCA's liability for retroactive part B premiums for full-benefit medicaid beneficiaries, including individuals receiving SSI medicaid, is limited to a period of no greater than 36 months prior to the date of the medicare enrollment determination.

D. For SSI medicaid recipients deemed eligible for the QMB group, renewal for QMB is required only to the extent to verify that an individual continues to receive SSI medicaid and has continued medicare part A coverage. The regular renewal process for QMB applies when an individual loses their SSI medicaid.

These proposed rule changes will be contained in 8.200.400 NMAC. This register and the proposed rule are available on the HCA website at: <https://www.hca.nm.gov/lookingforinformation/registers/> and <https://www.hca.nm.gov/2024-comment-period-open/>. If you do not have internet access, a copy of the proposed register and rule may be requested by contacting MAD at (505) 827-1337.

The HCA proposes to fully promulgate this NMAC by January 1, 2025.

A public hearing to receive testimony on this proposed rule will be held on **November 22, 2024, at 9:30 a.m.** The hearing will be held at the Administrative Services Division (ASD), 1474 Rodeo Rd, Santa Fe, NM 87505 and via Zoom.

Join Zoom Meeting

<https://us02web.zoom.us/j/86854369692?pwd=5ZgZxVLqnJap398D4tMmkaJ2QG7dYM.1> or by phone 833-548-0282, US Toll-free.

Meeting ID: 868 5436 9692

Passcode: 458698

If you are a person with a disability and you require this information in an alternative format or require special accommodation to participate in the public hearing, please contact the MAD in Santa Fe at (505) 827-1337. The HCA requests at least ten (10) working days advance notice to provide requested alternative formats and special accommodations.

Interested persons may address written comments to:

New Mexico Health Care Authority
Office of the Secretary
ATTN: Medical Assistance Division
Public Comments
P.O. Box 2348
Santa Fe, New Mexico 87504-2348

Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: HCA-madrules@hca.nm.gov. Written mail, electronic mail and recorded comments must be received **no later than 5 p.m. MT on November 22, 2024**. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the HCA website at <https://www.hca.nm.gov/lookingforinformation/registers/> and <https://www.hca.nm.gov/2024-comment-period-open/> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

End of Notices of Rulemaking and Proposed Rules

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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.

**HEALTH CARE
AUTHORITY
MEDICAL ASSISTANCE
DIVISION**

This is an emergency amendment to 8.200.400 NMAC, Sections 1, 8, 10, 11, 12, 13, 14 and 15, effective 10/1/2024.

8.200.400.1 ISSUING AGENCY: New Mexico [~~Human Services Department (HSD)] Health Care Authority (HCA).
[8.200.400.1 NMAC - Rp, 8.200.400.1 NMAC, 1/1/2019; A/E, 10/1/2024]~~

8.200.400.8 MISSION: [~~To transform lives. Working with our partners, we design and deliver innovative, high-quality health and human services that improve the security and promote independence for New Mexicans in their communities.] We ensure that New Mexicans attain their highest level of health by providing whole-person, cost-effective, accessible, and high-quality health care and safety-net services.
[8.200.400.8 NMAC - Rp, 8.200.400.8 NMAC, 1/1/2019; A, 1/1/2022; A/E, 10/1/2024]~~

8.200.400.10 BASIS FOR DEFINING GROUP - MEDICAID CATEGORIES:

A. Except where noted, the [~~HSD] HCA income support division (ISD) determines eligibility in the categories listed below:~~

- (1)** other adult (Category 100);
- (2)** parent caretaker (Category 200);
- (3)** pregnant women (Category 300);
- (4)** pregnancy-related services (Category 301);

(5) loss of parent caretaker due to earnings from employment or due to spousal support (Categories 027 and 028);

(6) newborn (Category 031);

(7) children under age 19 (Categories 400, 401, 402, 403, 420, and 421);

(8) children, youth, and families department medicaid (Categories 017, 037, 046, 04, 066, and 086); and

(9) family planning (Category 029).

B. Medicare savings program (MSP): MSP assists an eligible recipient with the cost of medicare.

(1) Medicare is the federal government program that provides health care coverage for individuals 65 or older; or under 65 who have a disability. Individuals under 65 who have a disability are subject to a waiting period of 24 months from the approval date of social security disability insurance (SSDI) benefits before they receive medicare coverage. Coverage under medicare is provided in four parts.

(a) Part A hospital coverage is usually free to beneficiaries when medicare taxes are paid while working.

(b) Part B medical coverage requires monthly premiums, co-insurance and deductibles to be paid by the beneficiary.

(c) Part C advantage plan allows a beneficiary to choose to receive all medicare health care services through a managed care organization.

(d) Part D provides prescription drug coverage.

(2) The following MSP programs can assist

an eligible recipient with the cost of medicare.

(a) Qualified medicare beneficiaries (QMB) - Categories 041 and 044: QMB covers low income medicare beneficiaries who have or are conditionally eligible for medicare Part A. QMB benefits are limited to the following:

(i) cost for the monthly medicare Part B premium;

(ii) cost of medicare deductibles and coinsurance; and

(iii) cost for the monthly medicare Part A premium (for those enrolling conditionally).

(b) Specified low-income medicare beneficiaries (SLIMB) - Category 045: SLIMB medicaid covers low-income medicare beneficiaries who have medicare Part A. SLIMB is limited to the payment of the medicare Part B premium.

(c) Qualified individuals 1 (QI1s) - Category 042: QI1 medicaid covers low-income medicare beneficiaries who have medicare Part A. QI1 is limited to the payment of the medicare part B premium.

(d) Qualified disabled working individuals (QDI) - Category 050: QDI medicaid covers low income individuals who lose entitlement to free medicare Part A hospital coverage due to gainful employment. QDI is limited to the payment of the monthly Part A hospital premium.

(e) Medicare Part D prescription drug coverage - low income subsidy (LIS) - Category 048: LIS provides individuals enrolled in medicare Part D with a subsidy that helps pay for the

cost of Part D prescription premiums, deductibles and co-payments. An eligible recipient receiving medicaid through QMB, SLMB or QI1 is automatically deemed eligible for LIS and need not apply. Other low-income medicare beneficiaries must meet an income and resource test and submit an application to determine if they qualify for LIS.

C. Supplemental security income (SSI) related medicaid:

(1) SSI - Categories 001, 003 and 004: Medicaid for individuals who are eligible for SSI. Eligibility for SSI is determined by the social security administration (SSA). This program provides cash assistance and medicaid for an eligible recipient who is:

- (a) aged (Category 001);
- (b) blind (Category 003); or
- (c) disabled (Category 004).

(2) SSI medicaid extension - Categories 001, 003 and 004: MAD provides coverage for certain groups of applicants or eligible recipients who have received supplemental security income (SSI) benefits and who have lost the SSI benefits for specified reasons listed below and pursuant to 8.201.400 NMAC:

- (a) the pickle amendment and 503 lead;
- (b) early widow(er);
- (c) disabled widow(er) and a disabled surviving divorced spouse;
- (d) child insurance benefits, including disabled adult children (DAC);
- (e) nonpayment SSI status (E01);
- (f) revolving SSI payment status “ping-pongs”; and
- (g) certain individuals who become ineligible for SSI cash benefits and, therefore, may receive up to two months of extended medicaid benefits

while they apply for another MAD category of eligibility.

(3) Working disabled individuals (WDI) and medicare wait period - Category 074:

There are two eligibility types:

- (a) a disabled individual who is employed; or
- (b) a disabled individual who has lost SSI medicaid due to receipt of SSDI and the individual does not yet qualify for medicare.

D. Long term care medicaid:

(1) medicaid for individuals who meet a nursing facility (NF) level of care (LOC), intermediate care facilities for the intellectually disabled (ICF-ID) LOC, or acute care in a hospital. SSI income methodology is used to determine eligibility. An eligible recipient must meet the SSA definition of aged (Category 081); blind (Category 083); or disabled (Category 084).

(2) Institutional care (IC) medicaid - Categories 081, 083 and 084:

IC covers certain inpatient, comprehensive and institutional and nursing facility benefits.

(3) Program of all-inclusive care for the elderly (PACE) - Categories 081, 083 and 084:

PACE uses an interdisciplinary team of health professionals to provide dual medicaid/medicare enrollees with coordinated care in a community setting. The PACE program is a unique three-way partnership between the federal government, the state, and the PACE organization. The PACE program is limited to specific geographic service area(s). Eligibility may be subject to a wait list for the following:

- (a) the aged (Category 081);
- (b) the blind (Category 083); or
- (c) the disabled (Category 084).

(4) Home and community-based 1915 (c) waiver services (HCBS) - Categories 090,

091, 092, 093, 094, 095 and 096:

A 1915(c) waiver allows for the provision of long term care services in home and community based settings. These programs serve a variety of targeted populations, such as people with mental illnesses, intellectual disabilities, or physical disabilities. Eligibility may be subject to a wait list.

(a) There are two HCBS delivery models:

- (i) traditional agency delivery where HCBS are delivered and managed by a MAD enrolled agency; or
- (ii) mi via self-directed where an eligible recipient, or their representative, has decision-making authority over certain services and takes direct responsibility to manage the eligible mi via recipient’s services with the assistance of a system of available supports; self-direction of services allows an eligible mi via recipient to have the responsibility for managing all aspects of service delivery in a person-centered planning process.

(b) HCBS waiver programs include:

- (i) elderly (Category 091), blind (Category 093) and disabled (Category 094);
- (ii) medically fragile (Category 095);
- (iii) developmental disabilities (Category 096); and
- (iv) self-directed model for Categories 090, 091, 093, 094, 095, 096 and 092).

E. Emergency medical services for non-citizens (EMSNC):

EMSNC medicaid covers certain non-citizens who either are undocumented or who do not meet the qualifying non-citizen criteria specified in 8.200.410 NMAC. Non-citizens must meet all eligibility criteria for one of the medicaid categories noted in 8.285.400 NMAC, except for citizenship or qualified non-citizen status. Medicaid eligibility for and coverage of services

under EMSNC are limited to the payment of emergency services from a medicaid provider.

F. Refugee medical assistance (RMA) - Categories 049 and 059: RMA offers health coverage to certain low-income refugees during the first twelve months from their date of entry to the United States (U.S.) when they do not qualify for other medicaid categories of eligibility. An RMA eligible refugee recipient has access to a benefit package that parallels the full coverage medicaid benefit package. RMA is funded through a grant under Title IV of the Immigration and Nationality Act (INA). An RMA applicant who exceeds the RMA income standards may “spend-down” below the RMA income standards for Category 059 by subtracting incurred medical expenses after arrival into the U.S.

G. Breast and cervical cancer (BCC) - Category 052: BCC medicaid provides coverage to an eligible uninsured woman, under the age of 65 who has been screened and diagnosed by the department of health (DOH) as having breast or cervical cancer to include pre-cancerous conditions. The screening criteria are set forth in the centers for disease control and prevention’s national breast and cervical cancer early detection program (NBCCEDP). Eligibility is determined using DOH notification and without a separate medicaid application or determination of eligibility.

[8.200.400.10 NMAC - Rp, 8.200.400.10 NMAC, 1/1/2019; A, 1/1/2022; A, 1/1/2023; A/E, 10/1/2024]

8.200.400.11 PRESUMPTIVE ELIGIBILITY FOR BREAST AND CERVICAL CANCER: PE provides immediate access to health services when an individual appears to be eligible for Category 052.

A. Breast and cervical cancer (BCC) (Category 052): PE provides temporary medicaid coverage for an uninsured woman, under the age of 65 who has been screened and diagnosed by the DOH

as having breast or cervical cancer to include pre-cancerous conditions. Only one PE period is allowed per calendar year.

B. PE is determined by a qualified entity certified by [HSD] HCA. Qualified entities may include community and rural health centers, hospitals, physician offices, local health departments, family planning agencies and schools.

C. The PE period begins on the date the provider determines presumptive eligibility and terminates at the end of the following month.

D. Providers shall notify the MAD claims processing contractor of the determination within 24-hours of the PE determination.

E. For continued medicaid eligibility beyond the PE period, a completed and signed application for medicaid must be submitted to [HSD/ASD] HCA/ISD. An eligible PE provider must submit the application to ISD within 10 calendar days from the receipt of the application.

[8.200.400.11 NMAC - Rp, 8.200.400.11 NMAC, 1/1/2019; A/E, 10/1/2024]

8.200.400.12 CONTINUOUS ELIGIBILITY FOR CHILDREN (42 CFR 435.926):

A. [HSD] HCA provides continuous eligibility for the period specified in Subsection B and C of 8.200.400.12 NMAC for an individual who is:

- (1) Under age 19 and
- (2) Eligible and enrolled for mandatory or optional coverage under the State plan.

B. The continuous eligibility period is up to six years for children from birth until turning age six. A child enrolled for less than 12 months before turning age six is eligible for 12 months of continuous eligibility. The continuous eligibility period begins on the effective date of the individual’s eligibility or most recent redetermination or renewal of eligibility.

C. The continuous eligibility period is 12 months for children age six until turning age 19. The continuous eligibility period begins on the effective date of the individual’s eligibility or most recent redetermination or renewal of eligibility.

D. A child’s eligibility may not be terminated during a continuous eligibility period, regardless of any changes in circumstances, unless:

- (1) the child attains the maximum age of 19;
- (2) the child or child’s representative requests a voluntary termination of eligibility;
- (3) the child ceases to be a resident of New Mexico;
- (4) the agency determines that eligibility was erroneously granted at the most recent determination, redetermination or renewal of eligibility because of agency error or fraud, abuse, or perjury attributed to the child or the child’s representative; or
- (5) the child dies.

[8.200.400.12 NMAC - Rp, 8.200.400.12 NMAC, 1/1/2019; A/E, 10/1/2024]

8.200.400.13 AUTHORIZED REPRESENTATIVE: [HSD] HCA must permit applicants and beneficiaries to designate an individual or organization to act responsibly on their behalf in assisting with the individual’s application and renewal of eligibility and other ongoing communications.

A. Such a designation must be in writing including the applicant’s signature, and must be permitted at the time of application and at other times. Legal documentation of authority to act on behalf of an applicant or beneficiary under state law, such as a court order establishing legal guardianship or a power of attorney, shall serve in the place of written authorization by the applicant or beneficiary.

B. Representatives may be authorized to:

(1) sign an application on the applicant’s behalf;
 (2) complete and submit a renewal form;
 (3) receive copies of the applicant or beneficiary’s notices and other communications from the agency; and
 (4) act on behalf of the applicant or beneficiary in all other matters with the agency.

C. The power to act as an authorized representative is valid until the applicant or beneficiary modifies the authorization or notifies the agency that the representative is no longer authorized to act on their behalf, or the authorized representative informs the agency that they are no longer acting in such capacity, or there is a change in the legal authority upon which the individual’s or organization’s authority was based. Such notice must be in writing and should include the applicant or authorized representative’s signature as appropriate.

D. The authorized representative is responsible for fulfilling all responsibilities encompassed within the scope of the authorized representation to the same extent as the individual they represent, and must agree to maintain, or be legally bound to maintain, the confidentiality of any information regarding the applicant or beneficiary provided by the agency.

E. As a condition of serving as an authorized representative, a provider, staff member or volunteer of an organization must sign an agreement that they will adhere to the regulations relating to confidentiality (relating to the prohibition against reassignment of provider claims as appropriate for a health facility or an organization acting on the facility’s behalf), as well as other relevant state and federal laws concerning conflicts of interest and confidentiality of information (42 CFR 435.923).

[8.200.400.13 NMAC - Rp, 8.200.400.13 NMAC, 1/1/2019; A, 1/1/2023; A/E, 10/1/2024]

8.200.400.14 RETROACTIVE MEDICAID:

A. [HSD] HCA must make eligibility for medicaid effective no later than the first or up to the third month before the month of application if the individual:

(1) Requested coverage for months prior to the application month;

(2) received medicaid services, at any time during that period, of a type covered under the plan and;

(3) would have been eligible for medicaid at the time they received the services, if they had applied (or an authorized representative has applied for [~~him or her~~] them) regardless of whether the individual is alive when application for medicaid is made.

B. Eligibility for medicaid is effective on the first day of the month if an individual was eligible at any time during that month.

C. Eligibility for each retroactive month is determined separately. Retroactive medicaid must be requested within 180 days of the date of the medicaid application.

D. Retroactive medicaid is allowed for up to three months prior to the application month for the following medicaid categories:

(1) other adults (COE 100);

(2) parent caretaker (COE 200);

(3) pregnant women (COE 300);

(4) pregnancy-related services (COE 301);

(5) children under age 19 (COEs 400, 401, 402, 403, 420, and 421);

(6) family planning (COE 029);

(7) children, youth and families department (CYFD COEs 017, 037, 046, 047, 066, and 086);

(8) supplemental security income (SSI COEs 001, 003, and 004);

(9) SSI (COEs 001, 003, and 004, e.g. 503s, disabled adult children, ping pongs, and early widowers);

(10) working disabled individuals (COE 074);

(11) breast and cervical cancer (BCC COE 052);

(12) specified low income beneficiaries (SLIMB COE 045);

(13) qualified individuals (QII COE 042);

(14) qualified disabled working individuals (COE 050);

(15) refugees (COE 049); and

(16) institutional care medicaid (COEs 081, 083, and 084) excluding the program for all-inclusive care for the elderly (PACE).

E. The following categories do not have retroactive medicaid:

(1) emergency medical services for non-citizens EMSNC (COE 085). EMSNC provides coverage for emergency services, which may be provided prior to the application month, but is not considered retroactive medicaid. Eligibility is determined in accordance with 8.285.400, 8.285.500, and 8.285.600 NMAC;

(2) home and community based-services waivers (COEs 091, 093, 094, 095, and 096);

(3) PACE (COEs 081, 083, and 084);

(4) qualified medicare beneficiaries (COEs 041 and 044); and

(5) transitional medicaid (COEs 027 and 028).

F. Newborns (COE 031) are deemed to have applied and been found eligible for the newborn category of eligibility from birth through the month of the child’s first birthday. This applies in instances where the labor and delivery services were furnished prior to the date of the application and covered by medicaid based on the mother applying for up to three months of retroactive eligibility.

[8.200.400.14 NMAC - Rp, 8.200.400.14 NMAC, 1/1/2019; A, 2/1/2020; A, 1/1/2022; A/E, 10/1/2024]

8.200.400.15 NMAC
[RESERVED] AUTOMATIC
ENROLLMENT OF SSI
RECIPIENTS IN THE OMB
GROUP:

A. SSI recipients entitled to premium-free part A: Effective October 1, 2024, the HCA shall automatically deem SSI recipients into QMB the first month they are eligible for SSI Medicaid and entitled to premium-free part A. The start of the part B buy-in coverage is the first month of entitlement to premium-free part A and the QMB eligibility group coverage is the first day of the following month.

B. SSI recipients enrolled in part B only: Effective upon the centers for medicare and medicaid services (CMS) and HCA systems' capacity, the HCA shall automatically deem individuals enrolled in SSI medicaid eligible for the QMB eligibility group the first month they are both enrolled in part B and eligible for a medicare enrollment period, bypassing the need for actual or conditional part A enrolment at the social security administration.

C. Effective January 1, 2024, the HCA's liability for retroactive part B premiums for full-benefit medicaid beneficiaries, including individuals receiving SSI medicaid, is limited to a period of no greater than 36 months prior to the date of the medicare enrollment determination.

D. For SSI medicaid recipients deemed eligible for the QMB group, renewal for QMB is required only to the extent to verify that an individual continues to receive SSI medicaid and has continued medicare part A coverage. The regular renewal process for QMB applies when an individual loses their SSI medicaid.

[8.200.400.15 NMAC - N/E, 10/1/2024]

HEALTH CARE
AUTHORITY
MEDICAL ASSISTANCE
DIVISION

This is an amendment to 8.200.430 NMAC, Sections 1, and 9 - 19, effective 11/1/2024.

8.200.430.1 ISSUING
AGENCY: [New Mexico Human-Services Department (HSD)] Health Care Authority (HCA).
 [8.200.430.1 NMAC - Rp, 8.200.430.1 NMAC, 1/1/2014; A, 11/1/2024]

8.200.430.9
RECIPIENT RIGHTS AND
RESPONSIBILITIES:

A. An individual has the right to apply for medicaid and other health care programs [HSD] HCA administers regardless of whether it appears [he-or-she] they may be eligible.

(1) Income support division (ISD) determines eligibility for the medical assistance division's medical assistance programs (MAP), unless otherwise determined by another entity as stated in 8.200.400 NMAC. A decision shall be made promptly on applications in accordance with the timeliness standards set forth in 8.100.130 NMAC.

(2) Individuals who might be eligible for supplemental security income (SSI) are referred to the social security administration (SSA) office to apply.

B. Application:
 A paper or electronic application is required from the applicant, an authorized representative, or, if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant. The applicant may complete a joint MAP, cash assistance, supplemental nutrition assistance program (SNAP) and low income home energy assistance (LIHEAP) application or a MAP-only application.

(1)
 The following do not require an application unless a re-determination is due in that month or the following month, as applicable:

(a)
 switching from one of the medical assistance for women, children

(MAWC) and families MAP categories to another;

(b)
 switching between medicaid and refugee medical assistance; and

(c)
 switching to or from one of the long term care medicaid categories.

(2) Medicare savings programs (MSP):

(a)
 A MAP eligible recipient receiving full benefits is automatically deemed eligible for MSP when [she-or-he-receives] they receive free medicare Part-A hospital insurance; the eligible recipient does not have to apply for medicare MSP;

(b)
 When an individual is not eligible for free medicare Part A hospital insurance, a separate application for the MAP qualified medicare beneficiary (QMB) eligibility category 040 is required. Individuals must apply for medicare Part A with the SSA. This is called, "conditional Part A" because they will receive medicare Part A on the condition that the MAP QMB category of eligibility is approved. When QMB is approved, the cost of the premium for Part A will be covered by MAD.

C. Responsibility in the application or recertification process: The applicant or the re-determining eligible recipient is responsible for providing verification of eligibility. Refer to 8.100.130 NMAC.

(1) An applicant or an eligible recipient's failure to provide necessary verification results in MAP ineligibility.

(2) An applicant or a re-determining eligible recipient shall give [HSD] HCA permission to contact other individuals, agencies, or sources of information which are necessary to establish eligibility.

[8.200.430.9 NMAC - Rp, 8.200.430.9 NMAC, 1/1/2014; A, 10/15/2014; A, 11/1/2024]

8.200.430.10 FREEDOM OF CHOICE: Except when specifically

waived from MAD, an eligible recipient has the freedom to obtain physical and behavioral health services from a MAD provider of [his-or-her] their choice. [8.200.430.10 NMAC - Rp, 8.200.430.10 NMAC, 1/1/2014; A, 10/15/2014; A, 11/1/2024]

8.200.430.11 RELEASE OF INFORMATION: By signing the MAP application, an applicant or a re-determining eligible recipient gives [HSD] HCA explicit consent to release information to applicable state or federal agencies, physical or behavioral health providers, or an [HSD] HCA designee when the information is needed to provide, monitor, or approve MAD services. Physical and behavioral health information is confidential and is subject to the standards for confidentiality per 8.300.11 NMAC. [8.200.430.11 NMAC - Rp, 8.200.430.11 NMAC, 1/1/2014; A, 10/15/2014; A, 11/1/2024]

8.200.430.12 RIGHT TO HEARING: An applicant or an eligible recipient is entitled to adequate notice of a [HSD] HCA adverse action regarding [his-or-her] their termination or re-categorization of [his-or-her] their MAP category of eligibility. The applicant or re-determining eligible recipient has specific rights and responsibilities when requesting a [HSD] HCA administrative hearing. A [HSD] HCA administrative hearing affords the applicant or re-determining eligible recipient the opportunity to have an impartial review of these decisions. See 8.352.2, 8.100.180 and 8.100.970 NMAC for a detailed description of these rights, responsibilities and the [HSD] HCA administrative hearing process. 8.352.2 NMAC further details the rights, responsibilities and the [HSD] HCA administrative hearing process for other adverse actions MAD, its utilization review contractor or a [HSD] HCA contracted managed care organization (MCO) may initiate (42 CFR Section 431.220(a)(1)(2)). [8.200.430.12 NMAC - Rp,

8.200.430.12 NMAC, 1/1/2014; A, 10/15/2014; A, 11/1/2024]

8.200.430.13 ASSIGNMENT OF SUPPORT: As a condition of MAP eligibility, [HSD] HCA requires an applicant or a re-determining eligible recipient to assign [his-or-her] their medical care support rights to [HSD] HCA for medical support and any third party payments. The assignment authorizes [HSD] HCA to pursue and make recoveries from liable third parties (42 CFR 433.146; Subsection G of 27-2-28 NMSA 1978.

A. Assigning medical support rights: The assignment to [HSD] HCA of an eligible recipient's rights to medical support and payments occurs automatically under New Mexico law when the applicant or the re-determining eligible recipient signs the application.

B. Third party liability (TPL): This section describes [HSD's] HCA's responsibility to identify and collect from primarily responsible third parties and the eligible recipient's responsibility to cooperate with [HSD] HCA to uncover such payments. MAD is the payer of last resort. If other third party resources are available, these health care resources must be used before MAD makes a reimbursement. As a condition of MAP eligibility, an applicant assigns [his-or-her] their rights to physical and behavioral health support and payments to [HSD] HCA and promises to cooperate in identifying, pursuing, and collecting payments from these resources. Third party resources include the gross recovery by eligible recipient, including personal injury protection benefits, before any reduction in attorney's fees or costs, obtained through settlement or verdict, for personal injury negligence or intentional tort claims or actions, up to the full amount of MAD payments for treatment of injuries causally related to the occurrence that is the subject of the claim or action.

(1) Required TPL information: During the initial

determination or re-determination of eligibility for MAP enrollment, ISD must obtain information about TPL from either the applicant or the re-determining eligible recipient.

(a) [HSD] HCA is required to take all reasonable measures to determine the legal liability of third parties, including health insurers in paying for the physical and behavioral health services furnished to an eligible recipient (42 CFR 433.138(a)).

(b) [HSD] HCA uses the information collected at the time of determination in order for MAD to pursue claims against third parties.

(2) Availability of health insurance: If an applicant or an eligible recipient has health insurance, the applicant or the eligible recipient shall notify ISD. ISD must collect all relevant information, including name and address of the insurance company; individuals covered by the policy, effective dates, covered services, and appropriate policy numbers.

(a) An applicant or an eligible recipient with health insurance coverage or coverage by a health maintenance organization (HMO) or other managed care plan (plan) must be given a copy of the TPL recipient information letter.

(b) If there is an absent parent, ISD may request the absent parent's name and social security number (SSN).

(c) ISD must determine if an absent parent, relative, applicant or any member of the household is employed and has health insurance coverage.

(3) Eligible recipients with health insurance coverage: An applicant or an eligible recipient must inform [his-or-her] their MAD providers of [his-or-her] their TPL. An applicant or an eligible recipient must report changes to or terminations of insurance coverage to ISD. If an applicant or an eligible recipient has health coverage through an HMO or plan, payment from MAD is limited to applicable copayments

required under the HMO or plan and to MAD covered services documented in writing as exclusions by the HMO or plan.

(a)

If the HMO or plan uses a drug formulary, the medical director of the HMO or plan must sign and attach a written certification for each drug claim to document that a pharmaceutical product is not covered by the HMO or plan. The signature is a certification that the HMO or plan drug formulary does not contain a therapeutic equivalent that adequately treats the physical or behavioral health condition of the HMO or plan subscriber.

(b)

Physical and behavioral health services not included in the HMO or plan are covered by MAD only after review of the documentation and on approval by MAD.

(c)

An applicant or an eligible recipient covered by an HMO or plan is responsible for payment of medical services obtained outside the HMO or plan and for medical services obtained without complying with the rules or policies of the HMO or plan.

(d)

An applicant or an eligible recipient living outside an HMO or plan coverage area may request a waiver of the requirement to use HMO or plan providers and services. The applicant or the eligible recipient for whom a coverage waiver is approved by MAD may receive reimbursement for expenses which allow ~~him or her~~ them to travel to an HMO or plan participating provider, even when the provider is not located near the applicant or the eligible recipient's residence.

(4) Potential

health care resources: ISD must evaluate the presence of a TPL source if certain factors are identified during the MAD eligibility interview.

(a)

When the age of the applicant or the eligible recipient is over 65 years old medicare must be explored. A student, especially a college student, may have health or accident insurance

through ~~his or her~~ their school.

(b)

An application on behalf of deceased individual must be examined for "last illness" coverage through a life insurance policy.

(c)

Certain specific income sources are indicators of possible TPL which include:

(i)

railroad retirement benefits and social security retirement or disability benefits indicating eligibility for Title XVIII (medicare) benefits;

(ii)

workers' compensation (WC) benefits paid to employees who suffer an injury or accident caused by conditions arising from employment; these benefits may compensate employees for physical and behavioral health expenses and lost income; payments for physical and behavioral health expenses may be made as physical and behavioral health bills are incurred or as a lump sum award;

(iii)

black lung benefits payable under the coal mine workers' compensation program, administered by the federal department of labor (DOL), can produce benefits similar to railroad retirement benefits if the treatment for illness is related to the diagnosis of pneumoconiosis; beneficiaries are reimbursed only if services are rendered by specific providers, authorized by the DOL; black lung payments are made monthly and physical and behavioral health expenses are paid as they are incurred; and

(iv)

Title IV-D support payments or financial support payments from an absent parent may indicate the potential for physical and behavioral health support; if a custodial party does not have health insurance that meets a minimum standard, the court in a divorce, separation or custody and support proceeding may order the parent(s) with the obligation of support to purchase insurance for the eligible recipient child (45 CFR 303.31(b)(1); Paragraph (1) of Subsection A of Section 40-

4C-4 NMSA 1978; insurance can be obtained through the parent's employer or union (Paragraph (2) of Subsection A of Section 40-4C-4 NMSA 1978; parents may be ordered to pay all or a portion of the physical and behavioral health expenses; for purposes of physical and behavioral health support, the minimum standards of acceptable coverage, deductibles, coinsurance, lifetime benefits, out-of-pocket expenses, co-payments, and plan requirements are the minimum standards of health insurance policies and managed care plans established for small businesses in New Mexico; see New Mexico insurance code.

(d)

An applicant or an eligible recipient has earned income: Earned income may indicate physical, behavioral health and health insurance made available by an employer.

(e)

Work history or military services: Work history may indicate eligibility for other cash and physical and behavioral benefits. Previous military service suggests the potential for veterans administration (VA) or department of defense (DOD) health care, including the civilian health and the medical program of the United States (CHAMPUS), for individuals who reside within a 40-mile radius of a military health care facility. An applicant or an eligible recipient who is eligible for DOD health care must obtain certification of non-availability of medical services from the base health benefits advisor in order to be eligible for CHAMPUS.

(f)

An applicant or an eligible recipient's expenses show insurance premium payments: Monthly expense information may show that the applicant or the eligible recipient pays private insurance premiums or is enrolled in an HMO or plan.

(g)

The applicant or the eligible recipient has a disability: Disability information contained in applications or brought up during interviews may indicate casualties or accidents involving legally responsible third parties.

(h) The applicant or the eligible recipient has a chronic disease: Individuals with chronic renal disease are probably entitled to medicare. Applications for social security disability may be indicative of medicare coverage.

(5) Communicating TPL information: Information concerning health insurance or health plans is collected and transmitted to MAD by ISD, child support enforcement division (CSED), SSA, and the children, youth and families department (CYFD). [8.200.430.13 NMAC - Rp, 8.200.430.13 NMAC, 1/1/2014; A, 10/15/2014; A, 11/1/2024]

8.200.430.14 ELIGIBLE RECIPIENT RESPONSIBILITY TO COOPERATE WITH ASSIGNMENT OF SUPPORT RIGHTS:

A. **Cooperation:** As a condition of MAP eligibility, an applicant or an eligible recipient must cooperate with [HSD] HCA to:

(1) obtain physical and behavioral health support and payments for [his or herself] them and other individuals for whom [he or she] they can legally assign rights;

(2) pursue liable third parties by identifying individuals and providing information to [HSD] HCA;

(3) cooperate with CSED to establish paternity and medical support as appropriate, see 8.50.105.12 NMAC;

(4) appear at a state or local office designated by [HSD] HCA to give information or evidence relevant to the case, appear as a witness at a court or other proceeding or give information or attest to lack of information, under penalty of perjury;

(5) refund [HSD] HCA any money received for physical or behavioral health care that has already been paid; this includes payments received from insurance companies, personal injury settlements, and any other liable third party; and

(6) respond to the trauma inquiry letter that is mailed to an eligible recipient (42 CFR 433.138(4); the letter asks an eligible recipient to provide more information about possible accidents, causes of accidents, and whether legal counsel has been obtained (42 CFR 433.147; 45 CFR 232.42, 232.43; Paragraph (3) of Subsection G of Section 27-2-28 NMSA 1978.

B. **Good cause waiver of cooperation:** The requirements for cooperation may be waived by [HSD] HCA if it decides that the applicant or the eligible recipient has good cause for refusing to cooperate. Waivers can be obtained for cooperating with CSED. The applicant or the eligible recipient should request a good cause waiver from CSED per 8.50.105.14 NMAC.

C. **Penalties for failure to cooperate:**

(1) When the parent, the specified relative or legal guardian fails or refuses to cooperate, the parent or specified relative will not be eligible for MAD services. The eligible recipient child maintains MAP eligibility provided all other eligibility criteria are met.

(2) When the parent or the specified relative fails or refuses to refund payments received from insurance or other settlement sources, such as personal injury case awards, [he or she is] they are not eligible for MAD services for one year and until full restitution has been made to [HSD] HCA. The eligible recipient child maintains MAP eligibility provided all other eligibility criteria are met.

[8.200.430.14 NMAC - Rp, 8.200.430.14 NMAC, 1/1/2014; A, 10/15/2014; A, 11/1/2024]

8.200.430.15 ELIGIBLE RECIPIENT RESPONSIBILITY TO GIVE PROVIDER PROPER IDENTIFICATION AND NOTICE OF ELIGIBILITY CHANGES:

A. An eligible recipient is responsible for presenting a current MAP eligibility card and evidence of any other health insurance to a MAD provider each time service is requested.

(1) An eligible recipient is responsible for any financial liability incurred if [he or she fails] they fail to furnish current MAP eligibility identification before the receipt of a service and as a result the provider fails to adhere to MAD rules, such as a failure to request prior approval. If this omission occurs, the settlement of claims for services is between the eligible recipient and the provider. An individual is financially responsible for services received if [he or she was] they were not eligible for MAD services on the date services are furnished.

(2) When a provider bills MAD and the claim is denied, the provider cannot bill the eligible recipient. Exceptions exist for denials caused by MAP ineligibility or by an eligible recipient's failure to furnish MAP identification in a timely manner.

(3) If an eligible recipient fails to notify the provider that [he or she has] they have received services that are limited by time or amount, the eligible recipient is responsible for payment of the service prior to rendering the service if the provider made reasonable efforts to verify whether the eligible recipient has already received services.

B. Notification of providers following retroactive eligibility determinations: If an eligibility determination is made, the eligible recipient is responsible for notifying MAD providers of this eligibility determination. When an individual receives retro MAP eligibility, the now-eligible recipient must notify all of [his or her] their MAD providers of [his or her] their change of eligibility. If the eligible recipient fails to notify the provider and the provider can no longer file a claim for reimbursement, the eligible recipient becomes the responsible payer for those services.

C. Notification if an eligible recipient has private insurance: If an eligible recipient is covered under a private health insurance policy or health plan, [he or she is] they are required to inform

~~his or her~~ their MAD providers of the private health coverage, including applicable policy numbers and special claim forms.

[8.200.430.15 NMAC - Rp, 8.200.430.15 NMAC, 1/1/2014; A, 10/15/2014; A, 11/1/2024]

8.200.430.16 ELIGIBLE RECIPIENT FINANCIAL RESPONSIBILITIES:

A. A MAD provider agrees to accept the amount paid as payment in full. A provider cannot bill an eligible recipient for any unpaid portion of the bill (balance billing) or for a claim that is not paid because of a provider administrative error or failure of multiple providers to communicate eligibility information.

(1) An eligible recipient is responsible for any financial liability incurred if ~~he or she fails~~ they fail to furnish current MAP eligibility identification before the receipt of a MAP service and as a result the provider fails to adhere to MAD reimbursement rules, such as a failure to request prior approval. If this omission occurs, the settlement of claims for services is between the eligible recipient and the MAP provider. An individual is financially responsible for services received if ~~he or she was~~ they were not eligible for MAD services on the date services are furnished.

(2) When a provider bills MAD and the claim is denied, the provider cannot bill the eligible recipient. Exceptions exist for denials caused by MAP ineligibility or by an eligible recipient's failure to furnish MAP identification at the time of service.

(3) If an eligible recipient fails to notify a provider that ~~he or she has~~ they have received services that are limited by time or amount, the eligible recipient is responsible to pay for services if, before furnishing the services, the provider makes reasonable efforts to verify whether the eligible recipient has already received services.

B. Failure of an eligible recipient to follow ~~his-~~

~~or her~~ their privately held health insurance carrier's requirements: An eligible recipient must be aware of the physician, pharmacy, hospital, and other providers who participate in ~~his or her~~ their HMO or other managed care plan. An eligible recipient is responsible for payment for services if ~~he or she uses~~ they use a provider who is not a participant in ~~his or her~~ their plan or if ~~he or she receives~~ they receive any services without complying with the rules, policies, and procedures of ~~his or her~~ their plan.

C. Other eligible recipient payment responsibilities: If all the following conditions are met before a MAD service is furnished, the eligible recipient can be billed directly by a MAD provider for services and is liable for payment:

(1) the eligible recipient is advised by a provider that the particular service is not covered by MAD or is advised by a provider that ~~he or she is~~ they are not a MAD provider;

(2) the eligible recipient is informed by a provider of the necessity, options, and charges for the services and the option of going to another provider who is a MAD provider; and

(3) the eligible recipient agrees in writing to have the service provided with full knowledge that ~~he or she is~~ they are financially responsible for the payment.

[8.200.430.16 NMAC - Rp, 8.200.430.16 NMAC, 1/1/2014; A, 10/15/2014; A, 10/1/2017; A, 2/1/2020; A, 11/1/2024]

8.200.430.17 RESTITUTION:

A. A MAP eligible recipient must return overpayments or medical payments received from liable third parties to the applicable medical service provider or to MAD. If payments are not returned or received, recoupment proceedings against the eligible recipient will be initiated.

B. The restitution bureau of ~~HSD~~ HCA is responsible for the tracking and collection of overpayments made to MAP eligible

recipients, vendors, and MAD providers. See Section OIG-940, RESTITUTIONS. The MAD third party liability unit is responsible for monitoring and collecting payments received from liable third parties. See 8.302.3 NMAC.

[8.200.430.17 NMAC - Rp, 8.200.430.17 NMAC, 1/1/2014; A, 10/15/2014; A, 11/1/2024]

8.200.430.18 REPORTING REQUIREMENTS: A medicaid eligible recipient is required to report certain changes which might affect ~~his or her~~ their eligibility to ISD within 10 calendar days from the date the change occurred. A timely change that is reported within 10 calendar days that may result in a more beneficial medicaid eligibility category shall be evaluated in the month the change occurred. An untimely change that is reported after 10 calendar days that may result in a more beneficial medicaid eligibility category shall be evaluated in the month the change was reported. A reported change that does not result in the same or a more beneficial medicaid category is considered an adverse action and is applied prospectively in accordance with 8.100.180.10 NMAC. See 8.100.110.9 NMAC for the various ways applicants and recipients can submit changes to the ~~HSD~~ HCA. The following changes must be reported to ISD:

A. **Living arrangements or change of address:** Any change in where an eligible recipient lives or gets ~~his or her~~ their mail must be reported.

B. **Household size:** Any change in the household size must be reported. This includes the death of an individual included in the either or both the assistance unit and budget group.

C. **Enumeration:** Any new social security number must be reported.

D. **Income:** Except for continuous eligibility in 8.200.400 NMAC any increase or decrease in the amount of income or change in the source of income must be reported.

E. Resource:

Resources only apply to non-modified adjusted gross income (MAGI) medicaid categories. Any change in what an eligible recipient owns must be reported. This includes any property the eligible recipient owns or has interest in, cash on hand, money in banks or credit unions, stocks, bonds, life insurance policies or any other item of value.

[8.200.430.18 NMAC - Rp, 8.200.430.18 NMAC, 1/1/2014; A, 2/14/2014; 8.200.430.18 NMAC - Rn & A, 8.200.430.19 NMAC, 10/15/2014; A, 10/1/2017; A, 11/1/2024]

8.200.430.19 MAD ESTATE RECOVERY:

[HSD] HCA is mandated to seek recovery from the estates of certain individuals up to the amount of medical assistance payments made by the [HSD] HCA on behalf of the individual. See Social Security Act Section 1917 (42 USC 1396p(b) and Section 27-2A-1 et seq., NMSA 1978 “Medicaid Estate Recovery Act”).

A. Definitions used in MAD estate recovery:

(1) Authorized representative: The individual designated to represent and act on the eligible recipient’s behalf. The eligible recipient or authorized representative must provide formal documentation authorizing the named individual or individuals to access the identified case information for a specified purpose and time frame. An authorized representative may be an attorney representing a person or household, a person acting under the authority of a valid power of attorney, a guardian, or any other individual or individuals designated in writing by the member.

(2) Estate: Real and personal property and other assets of an individual subject to probate or administration pursuant to the New Mexico Uniform Probate Code.

(3) Medical assistance: Amounts paid by [HSD] HCA for long term care services including related hospital and prescription drug services.

B. Basis for defining the group: A MAP eligible recipient who was 55 years of age or older when medical assistance payments were made on ~~his or her~~ their behalf for nursing facilities services, home and community based services, and related hospital and prescription drug services are subject to estate recovery.

C. The following exemptions apply to estate recovery:

(1) Qualified medicare beneficiaries, specified low-income beneficiaries, qualifying individuals, and qualified disabled and working individuals, are exempt from estate recovery for the receipt of hospital and prescription drug services unless they are concurrently in a MAP nursing facility category of eligibility or on a home and community based services waiver; this provision applies to medicare cost-sharing benefits (i.e., Part A and Part B premiums, deductibles, coinsurance, and co-payments) paid under the medicare savings programs.

(2) Certain income, resources, and property are exempted from MAD estate recovery for native Americans:

(a) interest in and income derived from tribal land and other resources held in trust status and judgment funds from the Indian claims commission and the United States claims court;

(b) ownership interest in trust or non-trust property, including real property and improvements;

(i) located on a reservation or near a reservation as designated and approved by the bureau of Indian affairs of the U.S, department of interior; or

(ii) for any federally-recognized tribe located within the most recent boundaries of a prior federal reservation; and

(iii) protection of non-trust property described in Subparagraphs (a) and (b) is limited to circumstances when it passes from a native American to one

or more relatives, including native Americans not enrolled as members of a tribe and non-native Americans such as a spouse and step-children, that their culture would nevertheless protect as family members; to a tribe or tribal organization; or to one or more native Americans;

(c) income left as a remainder in an estate derived from property protected in Paragraph (2) above, that was either collected by a native American, or by a tribe or tribal organization and distributed to native Americans that the individual can clearly trace the income as coming from the protected property;

(d) ownership interests left as a remainder in an estate in rents, leases, royalties, or usage rights related to natural resources resulting from the exercise of federally-protected rights, and income either collected by a native American, or by a tribe or tribal organization and distributed to native Americans derived from these sources as long as the individual can clearly trace the ownership interest as coming from protected sources; and

(e) ownership interest in or usage of rights to items, not covered by Subparagraphs (a) through (d) above, that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom.

(3) Effective
July 1, 2024, the HCA does not seek payment from an achieving a better life experience (ABLE) account or its proceeds for medicaid benefits provided to the beneficiary of the account.

D. Recovery process: Recovery from an eligible recipient’s estate will be made only after the death of the eligible recipient’s surviving spouse, if any, and only at a time that the eligible recipient does not have surviving child who is less than 21 years of age, blind, or who meet the SSA definition of disability.

(1) Estate recovery is limited to payments for

applicable services received on or after October 1, 1993; except that recovery also is permitted for pre-October 1993 payments for nursing facility services received by a MAP recipient who was 65 years of age or older when such nursing facility services were received.

(2) A recovery notice will be mailed to the authorized representative or next of kin upon the eligible recipient's death informing [him or her] them about the amount of claim against the estate and provide information on hardship waivers and hearing rights.

(3) It is the family or authorized representative's responsibility to report the eligible recipient's date of death to the ISD office within 10 calendar days after the date of death.

E. Eligible recipient rights and responsibilities:

(1) At the time of application or re-certification, the authorized representative must be identified or confirmed by the applicant or eligible recipient or [his or her] their designee.

(2) Information explaining estate recovery will be furnished to the applicant or eligible recipient, [his or her] their personal representative, or designee during the application or re-certification process. Upon the death of the MAP eligible recipient, a notice of intent to collect (recovery) letter will be mailed to the eligible recipient's personal representative with the total amount of claims paid by MAD on behalf of the eligible recipient. The authorized representative must acknowledge receipt of this letter in the manner prescribed in the letter within 30 calendar days of the date on the letter.

(3) During the application or re-certification process for] MAP eligibility, the local county ISD office will identify the assets of an applicant or the eligible recipient. This includes all real and personal property which belongs in whole or in part to the applicant or eligible recipient and the current fair market value of each asset. Any

known encumbrances on the asset should be identified at this time by the applicant or the eligible recipient or [his or her] their authorized representative.

(4) MAD, or its designee, will send notice of recovery to the probate court, when applicable, and to the eligible recipient's authorized representative or successor in interest. The notice will contain the following information:

(a) statement describing the action MAD, or its designee, intends to take;

(b) reasons for the intended action;

(c) statutory authority for the action;

(d) amount to be recovered;

(e) opportunity to apply for the undue hardship waiver;

(f) procedures for applying for a hardship waiver and the relevant timeframes involved;

(g) explanation of the eligible recipient's personal representative's right to request a [HSD] HCA administrative hearing; and

(h) the method by which an affected person may obtain a [HSD] HCA administrative hearing and the applicable timeframes involved.

(5) Once notified by MAD, or its designee, of the decision to seek recovery, it is the responsibility of the eligible recipient's authorized representative or successor in interest to notify other individuals who would be affected by the proposed recovery.

(6) The authorized representative will:

(a) remit the amount of medical assistance payments to [HSD] HCA or its designee;

(b) apply for an undue hardship waiver; (see Paragraph (2) of Subsection F below); or

(c) request an administrative hearing.

F. Waivers:

(1) For a general waiver, [HSD] HCA may compromise, settle, or waive recovery pursuant to the Medicaid Estate Recovery Act if it deems that such action is in the best interest of the state or federal government.

(2) Hardship provision: [HSD] HCA, or its designee, may waive recovery because recovery would work an undue hardship on the heirs. The following are deemed to be causes for hardship:

(a) the deceased recipient's heir would become eligible for a needs-based assistance program such as medicaid or temporary assistance to needy families (TANF) or be put at risk of serious deprivation without the receipt of the proceeds of the estate;

(b) the deceased eligible recipient's heir would be able to discontinue reliance on a needs-based program (such as medicaid or TANF) if [he or she] they received the inheritance from the estate;

(c) the deceased recipient's assets which are subject to recovery are the sole income source for the heir;

(d) the homestead is worth fifty percent or less than the average price of a home in the county where the home is located based on census data compared to the property tax value of the home; or

(e) there are other compelling circumstances as determined by [HSD] HCA or its designee. [8.200.430.19 NMAC - N, 1/1/2014; 8.200.430.19 NMAC - Rn & A, 8.200.430.20 NMAC, 10/15/2014; A, 11/1/2024]

PUBLIC REGULATION COMMISSION

The New Mexico Public Regulation Commission approved, on 9/19/2024,

the repeal of its rule 17.11.24 NMAC - Quality of Service Standards Applicable to Large Incumbent Local Exchange Carriers (filed 12/5/2019).

The New Mexico Public Regulation Commission approved, on 9/19/2024, the repeal of its rule 17.11.25 NMAC - Consumer Protection Standards Applicable to Large Incumbent Local Exchange Carriers (filed 12/5/2019).

PUBLIC REGULATION COMMISSION

This is an amendment to 17.9.573 NMAC, Sections 3, 11 and 15 effective 10/22/2024.

17.9.573.3 STATUTORY AUTHORITY: Paragraph (10) of Subsection B of Section ~~[8-8-4]~~ 62-19-9 and Section 62-16B-7 NMSA 1978. [17.9.573.3 NMAC - N, 07/12/2022; A, 10/22/2024]

17.9.573.11 STATEWIDE CAPACITY PROGRAM CAPS:
A. The ~~[initial]~~ statewide capacity program cap, effective November 1, 2024, is [of 200] 300 megawatts alternating current. This cap does not apply to applications and projects that have been processed in the commission's initial application selection process as such applications and projects remain subject to the initial cap of 200 megawatts. The 300-megawatt cap will apply to the first selection process to be conducted after November 1, 2024, and will be in addition to the 200-megawatt cap applied to the initial selection process, resulting in a total cap of 500 megawatts. The 300-megawatt cap is allocated among the service territories of the three qualifying utilities according to addressable market estimations, subject to further refinement, as follows:

- (1) public service company of New Mexico (PNM), ~~[125]~~ 185 MW;
- (2) southwestern public service company

(SPS), ~~[45]~~ 70 MW; and
(3) El Paso electric company (EPE), ~~[30]~~ 45 MW.

B. ~~[If, within one year of the receipt by a utility of the results of an initial request for proposals for community solar facilities, the initial capacity cap allocation for that utility has not been fully committed by contract,] [the] The commission may, at its discretion, [apply the] reallocate the capacity cap among the territories of the utilities to avoid a significant shortfall of the capacity actually used vis-à-vis the capacity cap. [unused capacity to another utility on a showing of the latter utility's sufficient subscriber demand.]~~

C. ~~[On or before April 1, 2024, the commission will commence a review of the results of the initial allocation and subscriber demand for the community solar program and a proceeding to establish a revised annual statewide capacity program cap and allocation to be in effect after November 1, 2024.]~~ The commission will review the cap on an annual basis. [17.9.573.11 NMAC - N, 07/12/2022; A, 10/22/2024]

17.9.573.15 SPECIAL SUBSCRIBER PROVISIONS:
A. Low-income customers who are eligible to meet the thirty percent carve out of Paragraph (3) of Subsection B of Section 62-16B-7 NMSA 1978 may be pre-qualified based on participation in any of the following programs:

- (1) medicaid;
- (2) Supplemental Nutrition Assistance Program (SNAP);
- (3) Low-Income Home Energy Assistance Program (LIHEAP);
- (4) first-time homeowner programs and housing rehabilitation programs;
- (5) living in a low-income/affordable housing facility; or
- (6) state and federal income tax credit programs.

B. An entire multi-family affordable housing project may

prequalify its entire load as a low-income subscriber.

C. A customer who does not qualify under subpart A may ~~[provisionally]~~ qualify as a low-income subscriber by signing a self-attestation that the customer's income and household size qualify the customer as a low-income subscriber ~~[until the customer provides sufficient confirming documentation within ninety days of providing the self-attestation].~~

D. Low-income service organizations need only fit the special definition of this term provided in the community solar act, Subsection H of Section 62-16-2 NMSA 1978.

E. For the initial period of the program, the commission shall contract with an experienced service provider to partner with community organizations and to manage an outreach program to attract low-income subscribers to the program. [17.9.573.15 NMAC - N, 07/12/2022; A, 10/22/2024]

REGULATION AND LICENSING DEPARTMENT ACUPUNCTURE AND ORIENTAL MEDICINE, BOARD OF

The New Mexico Board Acupuncture and Oriental Medicine approved to repeal its rule 16.2.4 NMAC, Acupuncture and Oriental Medicine Practitioners - Examinations (filed 4/20/2000) and replace it with 16.2.4 NMAC, Acupuncture and Oriental Medicine Practitioners - Examinations, (adopted 10/2/2024) and effective 10/22/2024.

The New Mexico Board Acupuncture and Oriental Medicine approved the repeal of 16.2.10 NMAC, Acupuncture and Oriental Medicine Practitioners - Fees (filed 9/22/2000) and replace it with 16.2.10 NMAC Acupuncture and Oriental Medicine Practitioners - Fees, (adopted 10/2/2024) and effective 10/22/2024.

**REGULATION
AND LICENSING
DEPARTMENT
ACUPUNCTURE AND
ORIENTAL MEDICINE,
BOARD OF**

**TITLE 16 OCCUPATIONAL
AND PROFESSIONAL
LICENSING
CHAPTER 2 ACUPUNCTURE
AND ORIENTAL MEDICINE
PRACTITIONERS
PART 4 EXAMINATIONS**

16.2.4.1 ISSUING

AGENCY: New Mexico Board of Acupuncture and Oriental Medicine. [16.2.4.1 NMAC, Rp, 16.2.4.1 NMAC 10/22/2024]

16.2.4.2 SCOPE: All applicants for licensure as doctors of oriental medicine. [16.2.4.2 NMAC, Rp, 16.2.4.2 NMAC 10/22/2024]

16.2.4.3 STATUTORY AUTHORITY: This part is promulgated pursuant to the Acupuncture and Oriental Medicine Practice Act, Subsection F of Section 61-14A-8, 9, 10 and 11 NMSA 1978. [16.2.4.3 NMAC, Rp, 16.2.4.3 NMAC 10/22/2024]

16.2.4.4 DURATION : Permanent. [16.2.4.4 NMAC, Rp, 16.2.4.4 NMAC 10/22/2024]

16.2.4.5 EFFECTIVE DATE: October 22, 2024, unless a later date is cited at the end of a section. [16.2.4.5 NMAC, Rp, 16.2.4.5 NMAC 10/22/2024]

16.2.4.6 OBJECTIVE: This part clarifies the contents, language, number and type of the examinations for licensure, the requirements for issuance of a license, the frequency of examination administration and re-examination requirements in the event of a failing score.

[16.2.4.6 NMAC, Rp, 16.2.4.6 NMAC 10/22/2024]

16.2.4.7 DEFINITIONS:

Refer to definitions in 16.2.1.7 NMAC (Section 7 of Part 1 of the rules).

[16.2.4.7 NMAC, Rp, 16.2.4.7 NMAC 10/22/2024]

16.2.4.8 APPROVED EXAMINATIONS:

The board approved examinations shall consist of a written examination portion and a practical examination portion. Certification as a diplomate in oriental medicine by the NCCAOM, or all required NCCAOM examinations must be completed prior to taking the clinical skills examination.

A. The written examinations approved by the board shall be:

(1) the national certification commission for acupuncture and oriental medicine foundations of oriental medicine module;

(2) the national certification commission for acupuncture and oriental medicine acupuncture module;

(3) the national certification commission for acupuncture and oriental medicine Chinese herbology module;

(4) the national certification commission for acupuncture and oriental medicine biomedicine module;

(5) the national certification commission for acupuncture and oriental medicine approved clean needle technique course; and

(6) the board approved, and board administered jurisprudence examination covering the act and the rules; or

(7) the California state examination and:

(a) an NCCAOM oriental medicine diplomate certification; or

(b) both the NCCAOM acupuncture and NCCAOM Chinese herbology diplomate certifications.

B. The practical examinations approved by the board shall be:

(1) the national certification commission for acupuncture and oriental medicine point location module; and

(2) the clinical skills examination; the clinical skills examination includes examination in acupuncture, herbal medicine and biomedicine competencies.

C. The board may adopt such other examinations as may be necessary for psychometric evaluation of its approved examinations.

[16.2.4.8 NMAC, Rp, 16.2.4.8 NMAC 10/22/2024]

16.2.4.9 EXAMINATION LANGUAGE:

All examinations required by the board shall be given in English.

[16.2.4.9 NMAC, Rp, 16.2.4.9 NMAC 10/22/2024]

16.2.4.10 EXAMINATION REQUIREMENTS FOR LICENSURE:

The following shall be the examination requirements for licensure. All fees for nationally recognized examinations shall be paid by the applicant and are not included in fees charged by the board.

A. Certification as a diplomate in oriental medicine by the NCCAOM, or achievement of a passing score as determined by the national certification commission for acupuncture and oriental medicine (NCCAOM) on each of the following prior to taking the clinical skills exam:

(1) the NCCAOM foundations of oriental medicine module;

(2) the NCCAOM acupuncture module;

(3) the NCCAOM Chinese herbology module;

(4) the NCCAOM biomedicine module; and

(5) the NCCAOM point location module.

B. Achievement of a passing score of at least seventy-

five percent on the clinical skills examination. To determine a passing score when the applicant is examined by more than one examiner, if the applicant is examined by two examiners, the applicant must receive a score of at least seventy-five percent after both scores are averaged and if the applicant is examined by three examiners, the applicant must receive a score of at least seventy-five percent from a majority of the examiners. Passing examination scores will be valid for five years, after which time they will expire, and the applicant must reapply to take the examination.

C. Successful completion of the national certification commission for acupuncture and oriental medicine approved clean needle technique course.

D. Achievement of a passing score of not less than ninety percent on the board approved and board administered jurisprudence examination covering the act and the rules.

E. Applicants who completed the national certification commission for acupuncture and oriental medicine (NCCAOM) examinations in acupuncture and Chinese herbology prior to June 2004 are not required to pass the NCCAOM foundations of oriental medicine module.
[16.2.4.10 NMAC, Rp, 16.2.4.10 NMAC 10/22/2024]

16.2.4.11 CLINICAL SKILLS EXAMINATION FREQUENCY AND DEADLINES: The board shall hold a clinical skills examination at least once each year provided that applications for licensure are pending. The initial application specified in 16.2.3.11 NMAC shall be received at the board office at least 60 calendar days before the next scheduled clinical skills examination date. The board shall send a written response to the applicant informing the applicant of the application's completeness or needed documentation at least 45 calendar days before the next scheduled clinical skills examination

date. All documentation required to complete the initial application for licensure shall be received at the board office at least 35 calendar days before the next scheduled clinical skills examination date. If the application requirements are received at the board office after a deadline, the application will be held and not processed until the deadline schedule for the next subsequent clinical skills examination. The applicant shall be notified of approval or denial of his or her completed initial application for licensure specified in 16.2.3.11 NMAC, at least 25 calendar days prior to the next scheduled clinical skills examination date.
[16.2.4.11 NMAC, Rp, 16.2.4.11 NMAC 10/22/2024]

16.2.4.12 CLINICAL SKILLS EXAMINATION CONFIRMATION: The board approved confirmation card, provided to the applicant, shall be emailed to the applicant upon receipt of the clinical skills examination fee specified in 16.2.10 NMAC. Confirmation of clinical exam passage will be valid for 24 months. After 24 months has passed, the applicant will have to retake the clinical exam and reapply as a new applicant.
[16.2.4.12 NMAC, Rp, 16.2.4.12 NMAC 10/22/2024]

16.2.4.13 PAYMENT OF CLINICAL SKILLS EXAMINATION FEE: The non refundable clinical skills examination fee specified in 16.2.10 NMAC shall be in U.S. funds and received in the board's office at least 31 calendar days prior to the next scheduled clinical skills examination.
[16.2.4.13 NMAC, Rp, 16.2.4.13 NMAC 10/22/2024]

16.2.4.14 CLINICAL SKILLS EXAMINATION COMMITMENT: Upon receipt of the clinical skills examination fee for the next scheduled clinical skills examination, the applicant shall sit for the exam or forfeit the fee. The non-refundable clinical skills examination fee may be applied to a subsequent

exam only as provided in Section 15 of 16.2.4 NMAC.
[16.2.4.14 NMAC, Rp, 16.2.4.14 NMAC 10/22/2024]

16.2.4.15 FORFEITURE OF CLINICAL SKILLS EXAMINATION FEE: Once the clinical skills examination fee is received in the board office, the applicant shall take the next scheduled clinical skills examination or forfeit the clinical skills examination fee. Under special circumstances the applicant may be allowed to take the next subsequent scheduled clinical skills examination without paying an additional examination fee.
[16.2.4.15 NMAC, Rp, 16.2.4.15 NMAC 10/22/2024]

16.2.4.16 FAILING SCORE: In the event that an applicant fails to achieve a passing score on the clinical skills examination, he may apply as provided in 16.2.4.17 NMAC and must pay the required fees.
[16.2.4.16 NMAC, Rp, 16.2.4.16 NMAC 10/22/2024]

16.2.4.17 RE-EXAMINATION: Applicants who have failed the clinical skills examination may apply to take the next subsequent clinical skills examination. The applicant shall notify the board in writing of their commitment to take the next subsequent clinical skills examination to be received at the board office at least 60 days before the next clinical skills examination date. The applicant shall then be notified by the board of their acceptance to take the next clinical skills examination at least 45 days prior to the next scheduled clinical skills examination date. The applicant shall pay the clinical skills examination fee in accordance with the provisions of 16.2.4.13 NMAC. If the applicant does not pass the next scheduled clinical skills examination, the applicant shall file a new application on the current form provided by the board, pay all the required fees, and satisfy all current requirements in effect at the time the application is made. If the applicant

passes the exam, but does not complete license application within 12 months, the applicant will have to reapply as an initial applicant. [16.2.4.17 NMAC, Rp, 16.2.4.17 NMAC 10/22/2024]

16.2.4.18 EXAMINERS: The board shall select a group of doctors of oriental medicine to act as examiners for the clinical skills examination. These examiners shall have had five years of clinical experience at the time they are selected. The board or its designated agent shall train these examiners to judge applicants taking the board approved clinical skills examination in the application of the diagnostic and treatment techniques of acupuncture and oriental medicine. [16.2.4.18 NMAC, Rp, 16.2.4.18 NMAC 10/22/2024]

16.2.4.19 EXAMINEE IDENTIFICATION: The board administrator shall provide to Examiners the full name, color photograph, and educational background of each Examinee at least 30 days prior to their relevant clinical skills exam. [16.2.4.19 NMAC – N, 10/22/2024]

16.2.4.20 REVIEW OF CLINICAL SKILLS EXAMINATION SCORE: Applicants may request review of their clinical skills examination results by the board or its examination committee for significant procedural or computational error if such review request is received in writing at the board office within 25 calendar days of notification to the applicant of the clinical skills examination results. [16.2.4.20 NMAC, Rp, 16.2.4.19 NMAC 10/22/2024]

History of 16.2.4 NMAC:
Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records - state records center and archives as:
 AB 81-1, Regulations Governing Acupuncture Practitioners, filed 10/5/1981;

AB 82-1, Regulations Governing Acupuncture Practitioners, filed 6/16/1982;
 AB 84-1, Regulations Governing Acupuncture Practitioners, Tutors and Institutes, filed 3/13/1984;
 BCD 87-1, Emergency Regulations Governing Acupuncture Practitioners, Tutors and Institutes, filed 10/30/1987;
 ACU 88-1 Regulations Governing Acupuncture Practitioners, Tutors and Institutes, filed 3/13/1989;
 ACU Rule 91-6, Regulations Governing Acupuncture Practitioners, Tutors and Institutes Licensure by Examination, filed 2/18/1991;
 ACU 91-6, Regulations Governing Acupuncture Practitioners, Tutors and Institutes, Licensure by Examination, filed 12/18/1991;
 Rule 6, Regulations Governing Acupuncture Practitioners, Tutors and Institutes, Licensing by Examination, filed 8/28/1992;
 Rule 6, Regulations Governing Acupuncture Practitioners, Tutors and Institutes, Licensing by Examination, filed 1/26/1993.

History of Repealed Material:
 16.2.4.17 NMAC and 16.2.4.18 NMAC (both filed 4/20/2000) repealed 7/26/2001.
 16.2.4.17 NMAC - Examinations, filed 4/20/2000, repealed effective 10/22/2024.

Other History:
 Rule 6, Regulations Governing Acupuncture Practitioners, Tutors and Institutes, Licensing by Examination (filed 1/26/1993) renumbered, reformatted and replaced by 16 NMAC 2.4, Examinations, effective 7/1/1996.
 16 NMAC 2.4, Examinations (filed 6/14/1996) renumbered, reformatted, amended and replaced as 16.2.4 NMAC, Examinations, effective 5/20/2000.
 16.2.4 NMAC - Examinations, filed 4/20/2000, replaced by 16.2.4 NMAC - Examinations, effective 10/22/2024.

REGULATION AND LICENSING DEPARTMENT ACUPUNCTURE AND ORIENTAL MEDICINE, BOARD OF

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 2 ACUPUNCTURE AND ORIENTAL MEDICINE PRACTITIONERS PART 10 FEES

16.2.10.1 ISSUING AGENCY: New Mexico Board of Acupuncture and Oriental Medicine. [16.2.10.1 NMAC - Rp, 16.2.10.1 NMAC 10/22/2024]

16.2.10.2 SCOPE: All licensees, applicants, applicants for expanded practice certification, educational courses, temporary licensees, applicants for temporary licensure, limited temporary license holders, limited temporary license applicants, extern applicants, externship supervisor applicants, certified auricular detoxification specialists, certified auricular detoxification specialist applicants, auricular detoxification specialist training programs, auricular detoxification specialist training program applicants, educational programs and applicants for approval of educational programs. [16.2.10.2 NMAC - Rp, 16.2.10.2 NMAC 10/22/2024]

16.2.10.3 STATUTORY AUTHORITY: This part is promulgated pursuant to the Acupuncture and Oriental Medicine Practice Act, Sections 61-14A-8, 8.1, 9, 14.1 and 16, NMSA 1978. [16.2.10.3 NMAC - Rp, 16.2.10.3 NMAC 10/22/2024]

16.2.10.4 DURATION : Permanent. [16.2.10.4 NMAC - Rp, 16.2.10.4 NMAC 10/22/2024]

16.2.10.5 EFFECTIVE DATE: October 22, 2024 unless

a later date is cited at the end of a section.
[16.2.10.5 NMAC - Rp, 16.2.10.5 NMAC 10/22/2024]

16.2.10.6 OBJECTIVE:
This part clarifies the requirements for the deposit and use of revenues derived from fees, establishes that the board shall not make refunds and lists all fees charged by the board.
[16.2.10.6 NMAC - Rp, 16.2.10.6 NMAC 10/22/2024]

16.2.10.7 DEFINITIONS:
Refer to definitions in 16.2.1.7 NMAC.
[16.2.10.7 NMAC - Rp, 16.2.10.7 NMAC 10/22/2024]

16.2.10.8 DEPOSIT AND USE OF FEES: All fees and other funds collected under the act shall be deposited with the state treasurer for credit to the board of acupuncture and oriental medicine fund. The board shall appropriate money from the fund to pay for the costs of administration of the act. Any surplus funds remaining at the end of each fiscal year shall not revert to the general fund.
[16.2.10.8 NMAC - Rp, 16.2.10.8 NMAC 10/22/2024]

16.2.10.9 FEES CHARGED:
A. All fees shall be paid by check, certified check or money order in US funds unless otherwise specified by rule.
B. No fees paid to the board shall be refunded.
C. The board shall charge the following fees:
(1) application for licensure: \$525.00;
(2) application for expedited licensure: \$750.00;
(3) application for licensure by endorsement: \$525.00;
(4) application for temporary licensure: \$330.00;
(5) application for limited temporary license: \$100.00;
(6) clinical skills examination, not including the

cost of any nationally recognized examinations: \$500.00;
(7) annual license renewal: \$225.00;
(8) late license renewal: an additional \$200.00;
(9) expired license renewal: an additional \$350.00 plus the renewal and late fees;
(10) temporary license renewal: \$100.00;
(11) application for a new annual approval or renewal of approval of an educational program, including the same program offered at multiple campuses: \$450.00;
(12) late renewal of approval of an educational program: an additional \$200.00;
(13) application for single instance approval of an educational program: \$225.00;
(14) application for initial expanded practice certification: \$100.00 per module;
(15) application for triennial expanded practice license renewal: an additional \$200;
(16) late expanded practice license renewal: an additional \$125.00 plus the renewal fee;
(17) expired expanded practice license renewal: an additional \$100.00 plus the renewal and late fees;
(18) application for externship supervisor registration: \$225.00;
(19) application for extern certification: \$225.00;
(20) continuing education provider course approval application: \$50.00;
(21) auricular detoxification specialist certification application: \$50.00;
(22) auricular detoxification specialist certification renewal: \$30.00;
(23) auricular detoxification specialist certification late renewal: \$20.00;
(24) auricular detoxification specialist supervisor registration application: \$50.00;
(25) auricular

detoxification specialist training program approval application: \$100.00;
(26) auricular detoxification specialist training program approval renewal: \$50.00;
(27) treatment program approval application: \$100.00;
(28) administrative fee for application for approval of an expanded practice educational course: \$600.00;
(29) administrative fee for faculty changes in an expanded practice course: \$50.00;
(30) administrative fee for curriculum changes in an expanded practice course: \$150.00;
(31) renewal of expanded prescriptive authority course: \$200.00;
(32) administrative fee for inactive license application: \$125.00;
(33) administrative fee for inactive license renewal: \$100.00;
(34) administrative fee for inactive license reinstatement application: \$125.00;
(35) administrative fee for each duplicate license: \$30.00;
(36) administrative fee for a single transcript or diploma from the former international institute of Chinese medicine, per copy: \$50.00;
(37) administrative fees to cover the cost of photocopying, electronic data, lists and labels produced at the board office.
[16.2.10.9 NMAC - Rp, 16.2.10.9 NMAC 10/22/2024]

History of 16.2.10 NMAC:
Pre-NMAC History:
Material in this part was derived from that previously filed with the commission of public records- state records center and archives as: AB 81-1, Regulations Governing Acupuncture Practitioners, filed

10/5/1981;
 AB 82-1, Regulations Governing Acupuncture Practitioners, filed 6/16/1982;
 AB 84-1, Regulations Governing Acupuncture Practitioners, Tutors and Institutes; filed 3/13/1984;
 BCD 87-1, Regulations Governing Acupuncture Practitioners, Tutors and Institutes; filed 10/30/1987;
 ACU 88-1, Regulations Governing Acupuncture Practitioners, Tutors and Institutes; filed 3/13/1989;
 ACU Rule 91-4, Regulations Governing Acupuncture Practitioners, Tutors and Institutes; Fees; filed 2/18/1991;
 Rule 4, Regulations Governing Acupuncture Practitioners, Tutors and Institutes, Fees, filed 8/28/1992;
 Rule 4, Regulations Governing Acupuncture Practitioners, Tutors and Institutes, Fees, filed 2/24/1993.

History of Repealed Material:
 16.2.10 NMAC, Fee (filed 9/22/2000)
 Repealed effective 10/22/2024.

Other History:
 Rule 4, Regulations Governing Acupuncture Practitioners, Tutors and Institutes, Fees (filed 2/24/1993) was renumbered and reformatted to 16 NMAC 2.10, Fees, effective 7/1/1996.
 16 NMAC 2.10, Fees, (filed 6/14/1996) was renumbered, reformatted, amended and replaced by 16.2.10 NMAC, Fees, effective 10/22/2000.
 16.2.10 NMAC, Fee (filed 9/22/2000)
 Replaced by 16.2.10 NMAC, Fees effective 10/22/2024.

**REGULATION
 AND LICENSING
 DEPARTMENT
 ACUPUNCTURE AND
 ORIENTAL MEDICINE,
 BOARD OF**

This is an amendment to Section 7 of 16.2.1 NMAC, effective 10/22/2024.

16.2.1.7 DEFINITIONS:
 The following definitions apply to the rules and the act.

A. Definitions

beginning with “A”:

(1) **“A4M”** is the American academy of anti-aging medicine.

(2) **“ACAM”** is the American college of alternative medicine.

(3) **“ACAHM”** is the accreditation commission for acupuncture and herbal medicine, formerly known as and synonymous with the accreditation commission for acupuncture and oriental medicine, (ACAOM), and any previous or former names used by the institution including the national accreditation commission for schools and colleges of acupuncture and oriental medicine, (ACSCAOM).

(4) **“Act”** is the Acupuncture and Oriental Medicine Practice Act, Sections 61-14A-1 through 61-14A-22 NMSA 1978.

(5) **“AMA”** is the American medical association.

(6) **“Animal acupuncture”** is acupuncture performed on any animal other than man. Animal acupuncture is authorized under the supervision of a doctor of veterinary medicine licensed in New Mexico and only under the guidelines of the rules of the New Mexico Veterinary Practice Act 61-14-1 to 61-14-20 NMSA 1978 and the rules of the New Mexico board of veterinary medicine 16.25.9.15 NMAC.

(7) **“Applicant”** is a person who has submitted to the board ~~[an]~~ a complete application for licensure as a doctor of oriental medicine.

(8) **“Applicant for temporary licensure”** is a person who has submitted to the board ~~[an]~~ a complete application for temporary licensure as a doctor of oriental medicine.

(9) **“Auricular acupuncture detoxification”** is an acupuncture related technique used only in the treatment and prevention of alcoholism, substance abuse and

chemical dependency. Auricular acupuncture detoxification may be described or referred to as “auricular detoxification”, “acupuncture detoxification”, “auricular acupuncture detoxification”, or “acudetox”.

(10) **“Auricular detoxification specialist supervisor”** is a doctor of oriental medicine registered with the board under the provisions of 16.2.16.18 NMAC.

(11) **“Auricular detoxification specialist training program”** is a training program approved by the board under the provisions of 16.2.16.26 NMAC to train certified auricular detoxification specialists and auricular detoxification supervisors.

(12) **“Auricular detoxification specialist training program trainer”** is a member of the staff of an auricular detoxification specialist training program who, though not necessarily licensed or certified by the state, shall be deemed to be a certified auricular detoxification specialist only for the purposes of and only for the duration of the auricular detoxification specialist training program.

(13) **“Authorized substances”** are the specific substances defined in the four certification in 16.2.20 NMAC that are authorized according to Paragraph (1) of Subsection C of Section 61-14A-8 NMSA 1978 of the act for prescription, administration, compounding and dispensing by a doctor of oriental medicine certified for a specific category of expanded practice as defined in 16.2.19 NMAC.

B. Definitions

beginning with “B”:

(1) **“Bioidentical hormones”** means compounds, or salt forms of those compounds, that have exactly the same chemical and molecular structure as hormones that are produced in the human body.

(2) **“Biomedical diagnosis”** is a diagnosis of a person’s medical status based on the commonly agreed

upon guidelines of conventional biomedicine as classified in the most current edition or revision of the international classification of diseases, ninth revision, clinical modification (ICD-9-CM).

(3)

“**Biomedicine**” is the application of the principles of the natural sciences to clinical medicine.

C. Definitions

beginning with “C”:

(1) “**Certified auricular detoxification specialist**”

is a person certified by the board under the provisions of 16.2.16.10 NMAC to perform auricular detoxification techniques, only on the ears, only in the context of an established treatment program and only under the supervision of an auricular detoxification supervisor registered with the board. A person certified pursuant to Paragraph (1) of Subsection B of 61-14A-4 NMSA 1978 shall use the title of “certified auricular detoxification specialist” or “C.A.D.S.”

(2) “**Chief**

officer” is the board’s chairperson or his or her designee serving to administer the pre-hearing procedural matters of disciplinary proceedings.

(3) “**Clinical**

experience” is the practice of acupuncture and oriental medicine as defined in the act, after initial licensure, certification, registration or legal recognition in any jurisdiction to practice acupuncture and oriental medicine. A year of clinical experience shall consist of not less than 500 patient hours of licensed acupuncture and oriental medical practice within a calendar year, seeing at least 25 different patients within that year. One patient hour is defined as one clock hour spent in the practice of oriental medicine with patients.

(4)

“**Clinical skills examination**”

is a board approved, validated, objective practical examination that demonstrates the applicants entry level knowledge of and competency and skill in the application of the diagnostic and treatment techniques of acupuncture and oriental medicine and of biomedicine.

(5)

“**Complainant**” is the complaining party.

(6)

“**Complaint committee**” is a board committee composed of the complaint committee chairperson and the complaint manager.

(7)

“**Complaint committee chairperson**” is a member of the board appointed by the board’s chairperson.

(8)

“**Complaint manager**” is the board’s administrator or any member of the board appointed by the board’s chairperson.

(9) “**Complete**

Application” an application with all required supporting documents prior to initial review.

D. Definitions

beginning with “D”:

(1)

“**Department**” is the state of New Mexico regulation and licensing department.

(2)

“**Detoxification**” is a concept in integrative medicine based on the principle that illnesses can be caused by the accumulation of toxic substances (toxins) in the body. Therapeutic support of elimination of these toxins is detoxification.

(3) “**Doctor**

of oriental medicine” is a physician licensed to practice acupuncture and oriental medicine pursuant to the act and as such has responsibility for his or her patient as a primary care physician or independent specialty care physician.

E. Definitions

beginning with “E”:

(1)

“**Educational course**” is a comprehensive foundation of studies, approved by the board leading to demonstration of entry level competence in the specified knowledge and skills required for the four respective certifications in expanded practice. An educational course is not an educational program as this term is used in the act and the rules and as defined in 16.2.1 NMAC.

(2)

“**Educational program**” is a board approved complete formal program that has the goal of educating a person to be qualified for licensure as a doctor of oriental medicine in New Mexico, is at least four academic years and meets the requirements of Section 61-14A-14 NMSA 1978 of the act and 16.2.7 NMAC.

(3)

“**Expanded practice**” is authorized by of Section 61-14-8.1 NMSA 1978 of the act and is granted to a doctor of oriental medicine who is certified by the board after fulfilling the requirements, in addition to those necessary for licensure, defined in 16.2.19 NMAC. Expanded practice is in addition to the prescriptive authority granted all licensed doctors of oriental medicine as defined in Paragraph (2) of Subsection G of Section 61-14A-3 NMSA 1978 of the act.

(4) “**Extern**”

is a current applicant undergoing supervised clinical training by an externship supervisor, and who has satisfied the application requirements for extern certification and who has received an extern certification issued by the board pursuant to 16.2.14 NMAC.

(5)

“**Externship**” is the limited practice of oriental medicine in New Mexico by an extern supervised by an externship supervisor pursuant to 16.2.14 NMAC.

(6)

“**Externship supervisor**” is a doctor of oriental medicine who has at least five clinical experience, maintains a clinical facility and maintains appropriate professional and facility insurance, and who has satisfied the board’s application requirements for an externship supervisor and has received an externship supervisor registration issued by the board pursuant to 16.2.14 NMAC.

F. Definitions

beginning with “F”: [RESERVED]

G. Definitions

beginning with “G”: **Good cause**” is the inability to comply because of serious accident, injury or illness,

or the inability to comply because of the existence of an unforeseen, extraordinary circumstance beyond the control of the person asserting good cause that would result in undue hardship. The person asserting good cause shall have the burden to demonstrate that good cause exists.

H. Definitions

beginning with “H”: [RESERVED]

I. Definitions

beginning with “I”:

(1) “Inactive

licensee” means a licensee in good standing whose license is placed on inactive status by the board and is therefore considered an inactive license in compliance with 16.2.15 NMAC.

(2) “ICE”

is the institute for credentialing excellence.

(3) “IFM” is

the institute for functional medicine.

(4) “Initial

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

J. Definitions

beginning with “J”: [RESERVED]

K. Definitions

beginning with “K”: [RESERVED]

L. Definitions

beginning with “L”:

(1)

“Licensee” is a doctor of oriental medicine licensed pursuant to the act.

(2) “License”

has the same meaning as defined in Paragraph (1) of Subsection F of Section 61-1-34 NMSA 1978.

(3) “Licensing

candidate” is an applicant whose initial application for licensure as a doctor of oriental medicine has been approved by the board.

(4) “Licensing

fee” has the same meaning as defined in Paragraph (2) of Subsection F of Section 61-1-34 NMSA 1978.

(5)

“Licensure by endorsement” is a licensing procedure for the experienced practitioner who completed his initial education in acupuncture and oriental medicine prior to the establishment of current

educational standards and who has demonstrated his or her competency through a combination of education, examination, authorized legal practice and clinical experience as defined in 16.2.17 NMAC. Completion of the licensure by endorsement process results in full licensure as a doctor of oriental medicine.

(6) “Limited

temporary license” is a license issued under the provisions of 16.2.5.12 NMAC for the exclusive purpose of teaching a single complete course in acupuncture and oriental medicine and assisting in the implementation of new techniques in acupuncture and oriental medicine including the study of such techniques by licensed, registered, certified or legally recognized healthcare practitioners from jurisdictions other than New Mexico. A limited temporary license shall be required for any person who demonstrates, practices or performs diagnostic and treatment techniques on another person as part of teaching or assisting in the implementation of new techniques, if they are not a licensee or temporary licensee. Limited temporary licenses shall not be issued to teachers for the purpose of teaching full semester courses that are part of an approved educational program.

(7) “Live

cell products” are living cells from glandular tissues and other tissues.

M. Definitions

beginning with “M”: “Military service member” has the same meaning as defined in Paragraph (3) of Subsection F of Section 61-1-34 NMSA 1978.

N. Definitions

beginning with “N”:

(1) “Natural

substances” are substances that exist in or are produced by nature and have not been substantially transformed in character or use.

(2) “NCA” is

a notice of contemplated action.

(3) “NCCA”

is the national commission for certifying agencies.

(4)

“NCCAOM” is the national

certification commission for acupuncture and oriental medicine.

O. Definitions

beginning with “O”:

(1) “Office”

is the physical facility used for the practice of acupuncture and oriental medicine and auricular detoxification.

(2)

“Oxidative medicine” is the understanding and evaluation of the oxidation and reduction biochemical functions of the body and the prescription or administration of substances, and the use of devices and therapies to improve the body’s oxidation and reduction function and health.

P. Definitions

beginning with “P”:

(1)

“Preceptor” means a doctor of oriental medicine with at least ten years of clinical experience.

(2)

“Protomorphogens” are extracts of glandular tissues.

Q. Definitions

beginning with “Q”: [RESERVED]

R. Definitions

beginning with “R”:

(1)

“Respondent” is the subject of the complaint.

(2) “Rules”

are the rules, promulgated pursuant to the act, governing the implementation and administration of the act as set forth in 16.2 NMAC.

S. Definitions

beginning with “S”:

(1)

“Substantial equivalent” means the determination by the board that the education, examination, and experience requirements contained in the statutes and rules of another jurisdiction are comparable to, or exceed the education, examination, and experience requirements of the Acupuncture and Oriental Medicine Practice Act, Sections 61-14A-1 NMSA 1978 *et. seq.*

(2)

“Supervised clinical observation” is the observation of acupuncture and oriental medical practice, in actual

treatment situations under appropriate supervision.

(3)

“Supervised clinical practice” is the application of acupuncture and oriental medical practice, in actual treatment situations under appropriate supervision.

(4)

“Supervision” is the coordination, direction and continued evaluation at first hand of the student in training or engaged in obtaining clinical practice and shall be provided by a qualified instructor or tutor as set forth in 16.2.7 NMAC. No more than four students shall be under supervision for supervised clinical practice and no more than four students shall be under supervision for supervised clinical observation by a qualified instructor at any time.

T. Definitions

beginning with “T”:

(1)

“Temporary licensee” is a doctor of oriental medicine who holds a temporary license pursuant to the act, 61-14-12 NMSA 1978 and 16.2.5 NMAC.

(2)

“Therapeutic serum” is a product obtained from blood by removing the clot or clot components and the blood cells.

(3)

“Treatment program” is an integrated program that may include medical and counseling services for disease prevention, harm reduction or the treatment or prevention of alcoholism, substance abuse or chemical dependency that is located at a fixed location or in a mobile unit and approved by the board under the provisions of 16.2.16.28 NMAC.

U. Definitions

beginning with “U”: “USP 797” is the United States pharmacopeia Chapter 797 pharmaceutical compounding.

V. Definitions

beginning with “V”: “Veteran” has the same meaning as defined in Paragraph (4) of Subsection F of Section 61-1-34 NMSA 1978.

W. Definitions

beginning with “W”: [RESERVED]

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

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

Z. Definitions
beginning with “Z”: [RESERVED]
[16.2.1.7 NMAC - Rp, 16.2.1.7 NMAC 02/11/2022; A, 4/25/2023; A, 10/22/2024]

REGULATION AND LICENSING DEPARTMENT ACUPUNCTURE AND ORIENTAL MEDICINE, BOARD OF

This is an amendment to 16.2.3 NMAC, Section 11, 12, 15 and 17 effective 10/22/2024.

16.2.3.11 INITIAL LICENSURE APPLICATION:

Upon approval of an application for licensure that fulfills the requirements listed below, the board shall issue a license that will be valid until July 31 following the initial licensure, except that licenses initially issued after May 1 will not expire until July 31 of the next renewal period as defined in 16.2.8.9 NMAC; the application requirements for a license shall be receipt of the following by the board:

A. the fee for application for licensure specified in 16.2.10 NMAC;

B. an application for licensure that is complete and in English on a form provided by the board that shall include the applicant’s name, address, date of birth and social security number, if available;

~~[C.] two passport-type photographs of the applicant taken not more than six months prior to the submission of the application;~~

~~[D.]~~ **C.** an affidavit as provided on the “initial licensure application” as to whether the applicant:

(1) has been subject to any disciplinary action in any jurisdiction related to the practice of acupuncture and oriental medicine, or related to any other profession including other health care

professions for which the applicant is licensed, certified, registered or legally recognized to practice including resignation from practice, withdrawal or surrender of applicants license, certificate or registration during the pendency of disciplinary proceedings or investigation for potential disciplinary proceedings;

(2) has

been a party to litigation in any jurisdiction related to the applicants practice of acupuncture and oriental medicine, or related to any other profession including other health care professions for which the applicant is licensed, certified, registered or legally recognized to practice;

(3) is in

arrears on a court-ordered child support payment; or

(4) has

violated any provision of the act or the rules;

~~[E.]~~ **D.** an official license history, which is a certificate from each jurisdiction stating the disciplinary record of the applicant, from each jurisdiction where the applicant has been licensed, certified, registered or legally recognized to practice any profession, including health care professions, in any jurisdiction, pursuant to any authority other than the New Mexico Acupuncture and Oriental Medicine Practice Act;

~~[F.]~~ **E.** an affidavit as provided on the “initial licensure application” stating that the applicant understands that:

(1) an applicant who has been subject to any action or proceeding comprehended by Subsection D of 16.2.3.10 NMAC may be subject to disciplinary action at any time, including denial, suspension or revocation of licensure, pursuant to the provisions of the act, Section 61-14A-17 NMSA 1978; and subject to the Uniform Licensing Act, Section 61-1-1 NMSA 1978, and subject to the Criminal Offender Employment Act, Section 28-2-1 NMSA 1978; and

(2) an

applicant who provides the board with false information or makes a false

statement to the board may be subject to disciplinary action, including denial, suspension or revocation of licensure, pursuant to the provisions of the act, Section 61-14A-17 NMSA 1978, and the Uniform Licensing Act, Section 61-1-1 NMSA 1978;

~~[G.]~~ **F.** an affidavit as provided on the “initial licensure application” stating that the applicant understands that:

(1) the applicant is responsible for reading, understanding and complying with the state of New Mexico laws and rules regarding this application as well as the practice of acupuncture and oriental medicine;

(2) the license must be renewed annually by July 31; and

(3) the applicant must notify the board within ten days if the applicant’s address changes;

~~[H.]~~ **G.** a copy of the applicant’s certificate or diploma from an educational program evidencing completion of the required program; this copy shall include on it an affidavit certifying that it is a true copy of the original;

~~[I.]~~ **H.** ~~[an official]~~ a copy of the applicant’s transcript ~~[that shall be sent directly to the board in a sealed envelope by the educational program from which the applicant received the certificate or diploma, and]~~ that shall verify the applicant’s satisfactory completion of the required academic and clinical education and that shall designate the completed subjects and the hours of study completed in each subject; ~~[or this copy of the transcript shall remain in the closed envelope secured with the official seal of the educational program and shall be sent by the applicant to the board along with the applicant’s application for licensure];~~ and

~~[J.]~~ **I.** an accurate translation in English of all documents submitted in a foreign language; each translated document shall bear the affidavit of the translator certifying that he or she is competent in both the language

of the document and the English language and that the translation is a true and faithful translation of the foreign language original; each translated document shall also bear the affidavit of the applicant certifying that the translation is a true and faithful translation of the original; each affidavit shall be signed before a notary public; the translation of any document relevant to an application shall be at the expense of the applicant.

J. proof of current basic life support, BLS, and CPR with proof of having completed an American heart association, American red cross, or American safety and health institute approved course; hands-on supervised practice of clinical skills is required; the didactic portion may be completed on-line; a current copy of this card shall be submitted the board at the time of application.

[16.2.3.11 NMAC - Rp, 16.2.3.11 NMAC, 2/11/2022; A, 10/22/2024]

16.2.3.12 EXAMINATION REQUIREMENTS: The examination requirements specified in 16.2.4 NMAC shall be received at the board office within 12 months of the receipt of the initial application at the board office. ~~[with the exception of the national certification commission for acupuncture and oriental medicine (NCCAOM) score requirements which need to be submitted to the board office within 24 months of the initial application.]~~

[16.2.3.12 NMAC - Rp, 16.2.3.12 NMAC, 2/11/2022; A, 10/22/2024]

16.2.3.15 DEADLINE FOR COMPLETING ALL REQUIREMENTS FOR LICENSURE: Documentation required for licensure shall be received at the board office no later than 12 months after the initial application is received at the board office. ~~[with the exception of the national certification commission for acupuncture and oriental medicine (NCCAOM) score requirements which need to be submitted to the board office within 24 months of the~~

~~initial application.]~~
[16.2.3.15 NMAC - Rp, 16.2.3.15 NMAC, 2/11/2022; A, 10/22/2024]

16.2.3.17 EXPIRATION AND ABANDONMENT OF APPLICATION: If all application requirements have not been met within ~~[24]~~ 12 months of the initial application, the application will expire and will be deemed abandoned. Exceptions may be made, at the board’s discretion, for good cause. If the application is abandoned and the applicant wants to reapply for licensure, the applicant shall be required to submit the completed current application form, pay the current application fee and satisfy the requirements for licensure then in effect at the time of the new application.

[16.2.3.17 NMAC - Rp, 16.2.3.17 NMAC, A, 10/22/2024]

REGULATION AND LICENSING DEPARTMENT ACUPUNCTURE AND ORIENTAL MEDICINE, BOARD OF

This is an amendment to 16.2.5 NMAC, Section 10 effective 10/22/2024.

16.2.5.10 TEMPORARY LICENSE APPLICATION: Upon ~~[approval]~~ submission of ~~[an]~~ a complete application for a temporary license that fulfills the requirements listed below, the board shall issue a temporary license that will be valid for the dates specified on the license but shall not exceed six months. The temporary license shall include the name of the temporary licensee, the effective dates of the license, the name of the sponsoring New Mexico doctor of oriental medicine or New Mexico educational program, and a statement that the license shall be for the exclusive purpose of one or more of the following: teaching acupuncture and oriental medicine; consulting, in association with the sponsoring doctor of oriental medicine, regarding

the sponsoring doctor’s patients; performing specialized diagnostic or treatment techniques in association with the sponsoring doctor of oriental medicine regarding the sponsoring doctor’s patients; assisting in the conducting of research in acupuncture and oriental medicine; or assisting in the implementation of new techniques and technology related to acupuncture and oriental medicine. The application requirements for a limited temporary license shall be receipt of the following by the board.

A. The fee for application for temporary license specified in 16.2.10 NMAC.

B. A complete application [An application] for a temporary license [that is complete and] is one that is in English [on a form provided by the board that shall] and includes the applicant’s name, address, date of birth, social security number or individual tax identification number, if available, and the name of the sponsoring and associating New Mexico doctor of oriental medicine or New Mexico educational program.

~~[C. One passport-type photograph of the applicant taken not more than six months prior to the submission of the application.~~

~~[D.]~~ **C.** An affidavit as provided on the “temporary license application” from the sponsoring and associating New Mexico doctor of oriental medicine or New Mexico educational program attesting to the qualifications of the applicant and the activities the applicant will perform.

~~[E.]~~ **D.** An affidavit as provided on the “temporary license application” as to whether the applicant:

(1) has been subject to any disciplinary action in any jurisdiction related to the practice of acupuncture and oriental medicine, or related to any other profession including other health care professions for which the applicant is licensed, certified, registered or legally recognized to practice including resignation from practice, withdrawal or surrender of applicants license, certificate or registration during the pendency of disciplinary

proceedings or investigation for potential disciplinary proceedings; or

(2) has been a party to litigation in any jurisdiction related to the applicants practice of acupuncture and oriental medicine, or related to any other profession including other health care professions for which the applicant is licensed, certified, registered or legally recognized to practice; or

(3) is in arrears on a court-ordered child support payment.

~~[F.]~~ **E.** An official license history, which is a certificate from each jurisdiction stating the disciplinary record of the applicant, from each jurisdiction where the applicant has been licensed, certified, registered or legally recognized to practice any other profession, including other health care professions, in any jurisdiction, pursuant to any authority other than the New Mexico Acupuncture and Oriental Medicine Practice Act.

~~[G.]~~ **F.** An affidavit as provided on the “temporary license application” stating that the applicant understands that:

(1) an applicant who has been subject to any action or proceeding comprehended by Subsection E of 16.2.5.10 NMAC may be subject to disciplinary action at any time, including denial, suspension or revocation of licensure, pursuant to the provisions of the act, Section 61-14A-17 NMSA 1978; and subject to the Uniform Licensing Act, Section 61-1-1 NMSA 1978, and subject to the Criminal Offender Employment Act, Section 28-2-1 NMSA 1978; and

(2) an applicant who provides the board with false information or makes a false statement to the board may be subject to disciplinary action, including denial, suspension or revocation of licensure, pursuant to the provisions of the act, Section 61-14A-17 NMSA 1978, and the Uniform Licensing Act, Section 61-1-1 NMSA 1978.

~~[H.]~~ **G.** An affidavit as provided on the “temporary license application” stating that the applicant understands that:

(1) the applicant is responsible for reading, understanding and complying with the state of New Mexico laws and rules regarding this application as well as the practice of acupuncture and oriental medicine; and

(2) the applicant must notify the board within ten days if the applicant’s address changes or the circumstances of the applicant’s relationship to the sponsoring and associating New Mexico doctor of oriental medicine or New Mexico educational program change; and

(3) the applicant may only engage in those activities authorized on the temporary license and only in association with the sponsoring and associating New Mexico doctor of oriental medicine or New Mexico educational program for the limited time specified on the temporary license.

~~[I.]~~ **H.** A copy of the applicant’s license, certification or registration or other document proving that the applicant is legally recognized in another state or country to practice acupuncture and oriental medicine or another health care profession and who possesses knowledge and skill that are included in the scope of practice of doctors of oriental medicine. The copy shall include on it an affidavit by the applicant certifying that it is a true copy of the original. For applicants in the United States who practice in a state in which there is no legal recognition, a copy of the certification document in acupuncture, Chinese herbal medicine or Asian body work, whichever is appropriate for the type of material they will be teaching or studying, by the national certification commission for acupuncture and oriental medicine (NCCAOM) shall be sufficient. The copy shall include on it an affidavit by the applicant certifying that it is a true copy of the original. For applicants outside the United States who practice in a country in which there is no specific legal recognition document but where graduation from an appropriate educational program is the legal

requirement for practice, the above provisions in this paragraph shall not apply.

~~[F:]~~ **L.** A copy of the applicant’s diploma for graduation from the educational program that is required to be licensed, certified, registered or legally recognized to practice in the state or country where the applicant practices. This copy shall include on it an affidavit by the applicant certifying that it is a true copy of the original.

~~[K:]~~ **J.** ~~[An official] A~~ copy of the applicant’s transcript ~~[that shall be sent directly to the board in a sealed envelope by the educational program from which the applicant received the certificate or diploma, and]~~ that shall verify the applicant’s satisfactory completion of the required academic and clinical education and that shall designate the completed subjects and the hours of study completed in each subject. ~~[This copy of the transcript shall remain in the closed envelope secured with the official seal of the educational program and shall be sent by the applicant to the board along with the applicant’s application for licensure.]~~

~~[H:]~~ **K.** An affidavit stating that the applicant has been officially informed by the board in writing that either of the following two requirements has been fulfilled:

(1) the educational program in acupuncture and oriental medicine from which the applicant graduated has been approved by the board as an educational program; or

(2) the board, by a vote of the majority of the members of the board acting at a duly convened meeting of the board, has determined not to require the applicant for temporary licensure to have graduated from an approved educational program as provided for in Subsection B of 16.2.5.9 NMAC.

~~[M:]~~ **L.** An accurate translation in English of all documents submitted in a foreign language. Each translated document shall bear the affidavit of the translator certifying that they are

competent in both the language of the document and the English language, and that the translation is a true and faithful translation of the foreign language original. Each translated document shall also bear the affidavit of the applicant certifying that the translation is a true and faithful translation of the original. Each affidavit shall be signed before a notary public. The translation of any document relevant to an application shall be at the expense of the applicant.

[16.2.5.10 NMAC - Rp 16.2.5.10 NMAC, 2/11/2022; A, 10/22/2024]

**REGULATION
AND LICENSING
DEPARTMENT
ACUPUNCTURE AND
ORIENTAL MEDICINE,
BOARD OF**

This is an amendment to Section 8, 9, 10 and 11 of 16.2.6 NMAC, effective 10/22/2024.

**16.2.6.8 LIST OF
DISAPPROVED LICENSING
JURISDICTIONS: REASONS:**

A. Applicants for expedited licensure as doctors of oriental medicine licensed in the following states and territories of the United States shall not be eligible or expedited licensure under 61-14A-13 NMSA 1978 of the Acupuncture and Oriental Medicine Practice Act (pursuant to the list of disapproved jurisdiction list, below, only four states are unequivocally approved for purposes of expedited licensure, which include Arkansas, Florida, Nevada, and Texas,):

(1) California, on the grounds that it does not recognize the national certification commission for acupuncture and oriental medicine (NCCAOM) examinations or certifications, as it utilizes its own examination, the California acupuncture licensing exam;

(2) Michigan, on the grounds that licensure was

not required until 2019 and there were no education or examination requirements for then registered acupuncturists to become licensed through 2024;

(3) Ohio, on the grounds that Ohio no longer licenses oriental medicine professionals and does not allow the use of Chinese herbal medicine by licensed acupuncturists;

(4) Wyoming, on the grounds that licensure was not required prior to 2018, and there were no education or examination requirements consistent with New Mexico’s examination requirements, for then registered acupuncturists to become licensed. Further, education requirements cannot be determined to be consistent with New Mexico;

(5) Guam, on the grounds that licensure of acupuncturists is determined based on the licensure an applicant holds in the U.S., and there is no way to determine whether such licensure is consistent with New Mexico other than on a case-by-case basis; and

(6) American Samoa, Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Minnesota, Montana, Nebraska, New Hampshire, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin, on the grounds that education and licensure examination requirements in these jurisdictions cannot be determined to be consistent with those requirements in New Mexico;

(7) Northern Mariana Islands, on the grounds that education and licensure examination requirements in this jurisdiction cannot be determined to be consistent with those requirements in New Mexico. Further, licensure as an acupuncturist is allowed if an applicant is licensed in one of the U.S. states or territories, and there is no way to determine whether such licensure is consistent with New Mexico other than on a case-by-case basis; and

(8) Unless the applicant holds a current or active oriental medicine certification, or both the acupuncture and chinese herbology certifications, from the NCCAOM, Alaska, Arizona, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Kansas, Massachusetts, Mississippi, Missouri, New Jersey, and North Dakota, on the grounds that New Mexico required the rigorous NCCAOM oriental medicine certification.

B. An applicant may not apply for expedited licensure on the basis of practice in any jurisdiction that does not license, register, certify, or regulate the practice of acupuncture or oriental medicine, including each of the following:

- (1) Alabama;
- (2) Oklahoma;
- (3) South Dakota;
- (4) Puerto Rico; and
- (5) U.S. Virgin Islands.

[16.2.6.8 NMAC - Rp, 16.2.6.8 NMAC 12/27/2022; A, 10/22/2024]

16.2.6.9 EXPEDITED LICENSURE APPLICATION:

A. A candidate for expedited licensure under 61-1-31.1 NMSA 1978 must submit to the board a complete application containing all the following:

- (1) a completed [~~and signed~~] application [~~form~~];
- (2) proof of a current license in good standing from an eligible jurisdiction as defined in these rules;
- (3) pass a written jurisprudence examination on the state laws and rules as required by Paragraph (4) of Subsection A of 61-14A-13 NMSA 1978;
- (4) payment of the required application fee.

B. An expedited license application shall not be deemed complete until the applicant has submitted and the board's staff is

in receipt of all the materials required by Subsection A of 16.2.6.11 NMAC, including documentation from third parties.

C. Upon receipt of a complete application, the board's staff shall process the application and issue the expedited license to a qualified applicant within 30 days.

D. If the applicant has a potentially disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-14A-17 NMSA 1978:

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

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

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

[16.2.6.9 NMAC - N, 12/27/2022; A, 10/22/2024]

16.2.6.10 EXPEDITED LICENSURE APPLICATION FOR MILITARY SERVICE MEMBERS AND VETERANS:

A. A candidate for expedited licensure under 61-1-34 NMSA 1978 must submit to the board, a complete application containing all the following:

(1) a completed [~~and signed~~] application [~~form~~];

(2) proof of a current license in good standing from another jurisdiction, including a branch of the United States Armed Forces; and

(3) Submission of the following documentation:

- (a) for military service member: copy of military orders;
- (b) for spouse of military service

members: copy of military service member's military orders and copy of marriage license;

(c) for spouses of deceased military service members: copy of decedent's DD214 and copy of marriage license;

(d) for dependent children of military service members: copy of military service member's orders listing dependent child, or a copy of military orders and one of the following: a copy of birth certificate, military service member's federal tax return or other governmental or judicial documentation establishing dependency;

(e) for veterans (retired or separated), proof of honorable discharge, such as a copy of DD form 214, DD form 215, DD form 256, DD form 257, NGB form 22, military ID card, driver's license or state ID card with a veteran's designation, or other documentation verifying honorable discharge.

B. An expedited license application shall not be deemed complete until the applicant has submitted and board staff is in receipt of all of the materials, including documentation from third parties, required by Subsection A of 16.2.6.11 NMAC.

C. Upon receipt of a complete application, board staff shall process the application and issue the expedited license to a qualified applicant within 30 days.

D. If the applicant is not a qualified applicant as defined by this rule and has a potentially disqualifying criminal conviction or the board may have other cause to deny the application pursuant to 61-14A-7 NMSA 1978:

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

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

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

E. A military service member or veteran who is issued an expedited license shall not be charged any initial licensing fees or renewal fees for the first three years of licensure with the board. [16.2.6.10 NMAC - N, 12/27/2022; A, 10/22/2024]

16.2.6.11 EXPEDITED LICENSE DURATION AND RENEWAL:

A. An expedited license shall be valid for the same length of time as a regular initial license issued by the board.

B. A licensee holding an expedited license may apply for license renewal in the manner provided by the board’s rules. However, if the licensee is not an NCCAOM certified diplomate in oriental medicine or has not passed the NCCAOM in another jurisdiction, the licensee shall be required to take and pass the NCCAOM or become an NCCAOM certified diplomate in oriental medicine prior to renewing the license. Additionally, if the licensee has not passed any additional examinations as required by 16.2.4.10 NMAC, including the New Mexico clinical skills examination, the licensee shall be required to take and pass such examinations prior to renewing the license.

C. Upon renewal, the board shall issue a regular license to a licensee holding an expedited license granted under this rule.

[16.2.6.11 NMAC - N, 12/27/2022, A, 10/22/2024]

REGULATION AND LICENSING DEPARTMENT ACUPUNCTURE AND ORIENTAL MEDICINE, BOARD OF

This is an amendment to 16.2.7 NMAC, Section 8, 11 and 12 effective 10/22/2024.

16.2.7.8 EDUCATIONAL PROGRAM REQUIREMENTS:

All educational programs shall be approved by the board. Using the requirements of 16.2.7.8 NMAC and 16.2.7.9 NMAC (Sections 8 and 9 of Part 7 of the rules), the board will evaluate whether or not an educational program shall be approved. If a visit is necessary to evaluate the educational program, the cost of the visit, including any administrative costs, shall be paid in advance by the educational program.

A. The foundation educational program requirement shall be the four academic year masters of oriental medicine program that meets the national certification commission for acupuncture and oriental medicine (NCCAOM) accreditation/equivalent education policy as defined here. Graduation/ education must be obtained from a formal education program that has met the standards of the accreditation commission for acupuncture and herbal medicine (ACAHM) or an equivalent educational body. A program may be established as having satisfied this requirement by demonstration of one of the following:

- (1) accreditation or candidacy for accreditation by ACAHM; or
- (2) approval by a foreign government’s ministry of education, ministry of health, or equivalent foreign government agency; each candidate must submit their documents for approval by a foreign credential equivalency service approved by the NCCAOM for that purpose; programs attempting to meet the eligibility requirement under this method must also meet the curricular requirements of ACAHM in effect at the time of application; or
- (3) approval by a foreign private accreditation agency that has an accreditation process and standards substantially equivalent to that of ACAHM, and

that is recognized for that purpose by the appropriate government entity in that foreign country; each candidate must submit their documents for approval by a foreign credential equivalency service approved by the NCCAOM for that purpose; programs attempting to meet the eligibility requirement under this method must also meet the curricular requirements of ACAHM in effect at the time of application.

(4) approval from the NCCAOM as having satisfied the eligibility requirements to receive the NCCAOM certification in oriental medicine, or in both acupuncture and Chinese herbology.

B. The educational program shall provide a program that shall be at least four academic years and shall include in-class education that comprises a minimum of 2,400 clock hours of classes including a minimum of 1,100 hours of didactic education in acupuncture and oriental medicine and a minimum of 900 hours of supervised clinical practice, instruction and observation in acupuncture and oriental medicine. The curriculum shall provide the knowledge and skills required to maintain appropriate standards of acupuncture and oriental medical care.

C. The educational program shall include a didactic curriculum that educates and graduates physicians who are competent to practice acupuncture and oriental medicine and who are able to diagnose, prescribe, and treat accurately and that specifically includes, in addition to the requirements of the act, oriental principles of life therapy, including the prescription of herbal medicine, diet and nutrition, manual therapy/ physical medicine and counseling, not to exceed 900 hours of the required 2,400 hours specified in Subsection B of 16.2.7.8 NMAC and that includes a minimum of 450 hours of education in herbal medicine.

D. The educational program shall include a clinical curriculum that includes clinical instruction and direct patient contact.

This clinical part of the educational program shall include at least 900 hours of supervised clinical practice, instruction and observation in the following areas:

(1) the observation of and assistance in the application of principles and techniques of oriental medicine including diagnosis, acupuncture, moxibustion, manual therapy/ physical medicine, diet and nutrition, counseling and the prescription of herbal medicine; and

(2) a minimum of 400 hours of actual treatment in which the student is required to perform complete treatment as the primary student practitioner.

E. The educational program shall include a curriculum that educates and graduates physicians who are competent to demonstrate a clinically relevant, complementary and integrative knowledge of biomedicine and biomedical diagnosis sufficient to treat and refer patients when appropriate.

F. The educational program may honor credit from other educational programs.

G. The names and educational qualifications of all teaching supervisors, resident teachers, and visiting teachers of acupuncture and oriental medicine shall be submitted to the board and shall meet the following:

(1) all teachers of acupuncture and oriental medicine in New Mexico shall have a license or temporary license to practice acupuncture and oriental medicine in New Mexico issued by the board; any educational program in violation of this provision shall be subject to suspension or revocation of the educational program approval or subject to disciplinary proceedings, including fines as defined in 16.2.12 NMAC;

(2) all teachers of acupuncture and oriental medicine at educational programs outside New Mexico shall be licensed, certified, registered or legally recognized to practice acupuncture and oriental medicine in the state or country in

which he or she practices and teaches; any educational program in violation of this provision shall be subject to suspension or revocation of the educational program approval or subject to disciplinary proceedings, including fines as defined in 16.2.12 NMAC;

(3) exceptions may be made at the board's discretion and for good cause.

H. Educational programs may employ or contract with ~~[tutors]~~ preceptors to teach components of the educational program. Educational programs may honor credit from ~~[tutors]~~ preceptors. A ~~[tutor]~~ preceptor is defined ~~[in the act]~~ as "a doctor of oriental medicine with at least ten years of clinical experience ~~[who is a teacher of acupuncture and oriental medicine]."~~

I. The educational program may be subject to inspection by the board.

[16.2.7.8 NMAC - Rp, 16.2.7.8 NMAC, 4/25/2023; A, 10/22/2024]

16.2.7.11 APPLICATION FOR SINGLE INSTANCE APPROVAL OF AN EDUCATIONAL PROGRAM:

~~[An]~~ A graduate of an educational program that does not have annual approval status from the board and does not satisfy at least one of the requirements outlined in Paragraph (1) of Subsection A of 16.2.7.8 NMAC through Paragraph (6) of Subsection A of 16.2.7.8 NMAC, shall submit a complete application in English to receive a single instance approval of the educational program for use by ~~[a single]~~ the applicant and must include: ~~[after the educational program that graduated the applicant has submitted to the board];~~

A. the application fee for a single instance approval of an educational program, specified in 16.2.10 NMAC, paid ~~[by certified check or money order]~~ in U.S. funds; and

B. ~~[an application that is complete and in English on a form prescribed by the board that contains]~~ the matriculation date for the educational program and

the information necessary to verify that the standards of professional education required by 16.2.7.8 and 16.2.7.9 NMAC are being met including an official copy of the curriculum. The application and the application fee shall be received at the board's office at least 90 days prior to the next scheduled clinical skills examination. The board shall send a written response to the applicant for approval of an educational program informing the applicant of the application's completeness or needed documentation postmarked at least 85 days before the next scheduled clinical skills examination date. All documentation requested to complete the application shall be received at the board's office at least 70 days before the next scheduled clinical skills examination date. The applicant shall be notified of approval or denial of the application in writing by mail postmarked at least 60 days prior to the next scheduled clinical skills examination date. Note that the above deadlines exist to synchronize with the deadlines for applicants regarding the clinical skills exam as defined in 16.2.4.11 NMAC.

[16.2.7.11 NMAC - Rp, 16.2.7.11 NMAC, 4/25/2023; A, 10/22/2024]

16.2.7.12 ANNUAL RENEWAL, LATE RENEWAL AND EXPIRED APPROVAL: To maintain annual approval status, an educational program shall submit by May 1st ~~[an]~~ a complete annual renewal application ~~[that is complete and]~~ in English ~~[on a form prescribed by the board]~~ and the required fee for renewal of approval of an educational program, specified in 16.2.10 NMAC, paid ~~[by certified check or money order]~~ in U.S. funds. The approval period is defined as August 1st to July 31st of the subsequent year. The approval expires at 12:00 midnight on July 31st. Renewal applications received after September 30th of any year must be submitted with the late fee specified in 16.2.10 NMAC (Part 10 of the rules) and paid ~~[by certified check or money order]~~ in U.S. funds. If the annual renewal application and fee are not received within 60

days after expiration, following the approval period, the annual approval is expired, and the educational program shall submit the initial application and initial application fee to become approved.

[16.2.7.12 NMAC - Rp, 16.2.7.12 NMAC, 4/25/2023; A, 10/22/2024]

**REGULATION
AND LICENSING
DEPARTMENT
ACUPUNCTURE AND
ORIENTAL MEDICINE,
BOARD OF**

This is an amendment to 16.2.8 NMAC, Section 10 of effective 10/22/2024.

**16.2.8.10 ANNUAL
LICENSE RENEWAL**

APPLICATION The board will renew a doctor of oriental medicine’s license upon receipt of a complete renewal application with the following supporting documentation, at the board office:

A. the license renewal fee specified in 16.2.10 NMAC paid [by check or money order] in U.S. funds, [or by credit card in U.S. funds if using the board’s online renewal process];

B. a complete license renewal application that is [~~complete and~~] in English [~~on a form provided by the board that~~] and shall include the applicant’s name, address, date of birth and social security number;

C. an affidavit as provided on the “annual license renewal form” as to whether the applicant since receiving or last renewing (whichever is more recent) his license with the board:

(1) has been subject to any disciplinary action in any jurisdiction related to the practice of acupuncture and oriental medicine, or related to any other profession including other health care professions for which the applicant is licensed, certified, registered or legally recognized to practice including resignation from practice,

withdrawal or surrender of applicants license, certificate or registration during the pendency of disciplinary proceedings or investigation for potential disciplinary proceedings;

(2) has been a party to litigation in any jurisdiction related to the applicants practice of acupuncture and oriental medicine, or related to any other profession including other health care professions for which the applicant is licensed, certified, registered or legally recognized to practice;

(3) is in arrears on a court-ordered child support payment; or

(4) has violated any provision of the act or the rules; and

D. an affidavit as provided on the “annual license renewal form” regarding the applicant’s license history since last renewing his license with the board stating the disciplinary record of the applicant, from each jurisdiction where the applicant has been licensed, certified, registered or legally recognized to practice acupuncture or oriental medicine or any other profession, including other health care professions, in any jurisdiction, pursuant to any authority other than the New Mexico Acupuncture and Oriental Medicine Practice Act;

E. an affidavit as provided on the “annual license renewal form” stating that the applicant understands that:

(1) an applicant who has been subject to any action or proceeding comprehended by Subsection C of 16.2.8.10 NMAC may be subject to disciplinary action at any time, including denial, suspension or revocation of licensure, pursuant to the provisions of the act, Section 61-14A-17 NMSA 1978; and subject to the Uniform Licensing Act, Section 61-1-1 NMSA 1978, and subject to the Criminal Offender Employment Act, Section 28-2-1 NMSA 1978; and

(2) an applicant who provides the board with false information or makes a false statement to the board may be subject

to disciplinary action, including denial, suspension or revocation of licensure, pursuant to the provisions of the act, Section 61-14A-17 NMSA 1978, and the Uniform Licensing Act, Section 61-1-1 NMSA 1978;

F. an affidavit as provided on the “annual license renewal form” stating that the applicant understands that:

(1) each licensed doctor of oriental medicine is responsible for the timely submission of the annual renewal application and fees;

(2) the applicant is responsible for reading, understanding and complying with the state of New Mexico laws and rules regarding this application as well as the practice of acupuncture and oriental medicine;

(3) the license must be renewed annually by July 31; and

(4) the applicant must notify the board within ten days if the applicant’s address changes;

G. if the applicant renews using the board’s online application process, the applicant shall check all appropriate affidavit check boxes in the online application and the applicant’s agreement to pay by credit card shall be equivalent to the applicant’s witnessed signature and notary’s stamp and signature normally required by the above affidavits;

H. an accurate translation in English of all documents submitted in a foreign language; each translated document shall bear the affidavit of the translator certifying that he is competent in both the language of the document and the English language and that the translation is a true and faithful translation of the foreign language original; each translated document shall also bear the affidavit of the applicant certifying that the translation is a true and faithful translation of the original; each affidavit shall be signed before a notary public; the translation of any document relevant to an application

shall be at the expense of the applicant; and

I. satisfactory proof as determined by the board of completion of any continuing education requirements established by the board in 16.2.9.8 NMAC; doctors of oriental medicine certified for the expanded practice shall submit satisfactory proof, as determined by the board, of completion of any expanded practice continuing education requirements established by the board in 16.2.9.9 NMAC

J. proof of current basic life support, BLS, and CPR with proof of having completed an American heart association, American red cross, or American safety and health institute approved course; hands-on supervised practice of clinical skills is required; the didactic portion may be completed on-line; a current copy of this card shall be submitted to the board at the time of each annual license renewal.

[16.2.8.10 NMAC - Rp, 16.2.8.10 NMAC, 2/11/2022; A, 10/22/2024]

REGULATION AND LICENSING DEPARTMENT ACUPUNCTURE AND ORIENTAL MEDICINE, BOARD OF

This is an amendment to Sections 8 and 9 of 16.2.9 NMAC, effective 10/22/2024.

16.2.9.8 CONTINUING EDUCATION:

A. A doctor of oriental medicine shall complete continuing education in oriental medicine equivalent to that required by the national certification commission for acupuncture and oriental medicine (NCCAOM). A doctor of oriental medicine shall submit to the board at the time of license renewal either of the following:

(1) proof of continuing NCCAOM recertification in oriental medicine, or in both acupuncture [or] and Chinese

herbology, or in acupuncture only if licensed prior to 1997, or;

(2) proof of completion of [~~fifteen (15)~~] 15 hours annually, or [~~sixty (60)~~] 60 hours every four [~~(4)~~] years, of NCCAOM approved continuing education courses or of courses approved by other acupuncture or oriental medicine licensing authorities; ~~[or]~~

(3) a course taken for initial certification in expanded practice may not also be used for continuing education required for annual license renewal.

B. proof of current basic life support, BLS, and CPR with proof of having completed an American heart association or American red cross approved course, or American safety and health institute; hands-on supervised practice of clinical skills is required; the didactic portion may be completed on-line; a current copy of this card shall be submitted to the board at the time of each annual license renewal.

~~[B:]~~ **C.** A doctor of oriental medicine who is a board approved examiner, examiner supervisor, or examiner trainer, for the clinical skills examination, shall be granted continuing education credit for time spent functioning as an examiner or training to be an examiner. This also applies to an observing board member who has completed the training. The continuing education credit is limited to [~~six (6)~~] 12 hours per year.

~~[C:]~~ **D.** The board shall annually audit a random ten [~~(10)~~] percent of continuing education documentation to determine the validity of the documentation.

~~[D:]~~ **E.** A doctor of oriental medicine who provides the board with false information or makes a false statement to the board may be subject to disciplinary action, including denial, suspension or revocation of licensure, pursuant to Section 61-14A-17 NMSA 1978, and the Uniform Licensing Act, Section 61-1-1 NMSA 1978, et seq.

[E:] E. A doctor of oriental medicine shall maintain an understanding of the current act and rules.

[16.2.9.8 NMAC - Rp 16 NMAC 2.9.8, 12/1/2001; A, 10/1/2013; A, 2/15/2005; A, 9/25/2006; A, 11/28/2009; A/E, 6/15/2010; A/E, 6/15/2010; Re-pr, 11/28/2010; A, 2/8/2013; A, 3/2/2014; A, 6/16/2015; A, 10/22/2024]

16.2.9.9 CONTINUING EDUCATION FOR LICENSEES CERTIFIED FOR EXPANDED PRACTICE:

In addition to the continuing education requirements listed in 16.2.9.8 NMAC, doctors of oriental medicine previously certified in expanded practice are subject to the following requirements beginning August 1, 2013:

A. a doctor of oriental medicine certified for expanded practice in one [~~(1)~~] or more areas as defined in 16.2.19 NMAC shall complete continuing education hours as follows:

(1) three [~~(3)~~] hours every three [~~(3)~~] years for recertification in basic injection therapy;

(2) seven [~~(7)~~] hours every three [~~(3)~~] years for recertification in injection therapy;

(3) seven [~~(7)~~] hours every three [~~(3)~~] years for recertification in intravenous therapies; and

(4) seven [~~(7)~~] hours every three [~~(3)~~] years for recertification in bioidentical hormone therapy;

(5) except that a doctor of oriental medicine recertifying in injection therapy or intravenous therapy need not complete an additional three [~~(3)~~] hours in basic injection therapy;

(6) a doctor of oriental medicine certified in basic injection therapy, injection therapy or intravenous therapy must complete an America society of health-systems pharmacists (ASHP) accredited course relative to USP 797 prior to July 31, 2016; and every six (6) years thereafter; and)

~~[(6)]~~ **(7)** doctors of oriental medicine previously certified as RxI shall need seven [~~(7)~~] hours, every three [~~(3)~~] years,

for recertification in prolotherapy as specified in 16.2.19.16 NMAC.

B. license holders who are newly certified for expanded practice shall complete continuing education hours on a prorated basis during the first year(s) of certification, and then shall comply with recertification requirements every three ~~[(3)]~~ years thereafter;

C. courses approved for recertification taken within ~~[one-hundred-twenty (120)]~~ 120 days prior to a renewal cycle may be carried over and applied to the next renewal cycle but may not be used for both renewal cycles.

D. the continuing education shall be about substances in the board approved appropriate expanded practice formulary or formularies defined in 16.2.20 NMAC or updated information in improving current techniques or ~~[new and advanced]~~ other techniques that are part of the expanded practice certification as defined in 16.2.19 NMAC;

E. continuing education courses, including teachers, shall be approved by the board:

(1) course providers requesting approval for Rx continuing education certification shall be required to submit the following materials to the board for approval no less than ~~[forty-five (45)]~~ 45 days prior to the date of the course offering and the materials shall include:

(a) an application fee as defined in Subsection C of 16.2.10.9 NMAC;

(b) course description, including objectives, subject matter, number of hours, date time and location; and

(c) curriculum vitae of the instructor(s) including previous experience of at least five (5) years in subjects they are engaged to teach;

(2) courses approved by national providers of continuing medical education (CME) are recognized by the board as approved providers for expanded practice continuing education units

(CEU) including but not limited to A4M, ACAM, AMA, IFM;

(3) individual practitioners requesting approval for a specific course that has not already been approved as defined in Paragraph (2) of Subsection D of 16.2.9.9 NMAC, for their own personal continuing education shall submit a copy of the course brochure including a course description, subject matter, contact hours, and curriculum vitae of the instructor ~~[forty-five (45)]~~ 45 days prior to the course offering;

(4) the continuing education committee shall meet each month on or before the ~~[fifteenth (15th)]~~ 15th to review course materials if applications have been submitted; electronic review is acceptable;

(5) a doctor of oriental medicine certified for expanded practice in basic injection, injection or intravenous therapies must remain current in basic life support, BLS, and CPR with proof of having completed an American heart association, American red cross, or American safety and health institute approved course; hands-on supervised practice of clinical skills is required; the didactic portion may be completed on-line; a current copy of this card shall be submitted to the board at the time of each triennial expanded practice certification renewal; and

F. continuing education that is appropriate for regularly licensed doctors of oriental medicine shall not be considered as fulfilling the above requirements for expanded practice continuing education;

(1) teaching an approved continuing education course shall be equivalent to taking the approved course; the first time that the course is offered;

(2) the board may determine specific mandatory courses that must be completed; specific mandatory courses shall be noticed at least six months prior to the date of the course; exceptions to being required to complete a specific mandatory course may be made for good cause.

[16.2.9.9 NMAC - N, 10/1/2013; A, 2/15/2005; A, 11/28/2009; A, 2/8/2013; A, 3/2/2014; A, 6/16/2015; A, 9/15/2015; A, 10/22/2024]

REGULATION AND LICENSING DEPARTMENT ACUPUNCTURE AND ORIENTAL MEDICINE, BOARD OF

This is an amendment to 16.2.14 NMAC, Sections 10 and 12 effective 10/22/2024.

16.2.14.10 EXTERN CERTIFICATION

APPLICATION: Upon ~~[approval]~~ submission of [an] complete application for extern certification that fulfills the requirements listed below, the board shall issue an extern certification. ~~[In the interim between regular board meetings, whenever a qualified applicant for extern certification has filed his or her application and complied with all other requirements of this section, the board's chairman or an authorized representative of the board may grant an interim temporary extern certification that will suffice until the next regular meeting of the board.]~~ In no event shall the applicant begin the practice of acupuncture and oriental medicine until the extern certification ~~[or interim temporary extern certification]~~ is issued by the board. ~~[The application requirements for extern certification shall be receipt of the following by the board:]~~

A. the fee for application for extern certification specified in 16.2.10 NMAC;

B. [an] a complete application for extern certification ~~[that is complete and]~~ in English ~~[on a form provided by the board]~~ that shall include the applicant's name, address, date of birth and social security number, or individual tax identification number, if available; [16.2.14.14 NMAC - N, 1/1/2001; A, 7/26/200; A, 10/22/2024]

16.2.14.12 ISSUANCE OF EXTERNSHIP SUPERVISOR REGISTRATION:

Upon [approval] submission of [an] a complete application for externship supervisor registration that fulfills the requirements listed below, the board shall issue an externship supervisor registration. ~~[In the interim between regular board meetings, whenever a qualified applicant for externship supervisor registration has filed his or her application and complied with all other requirements of this section, the board's chairman or an authorized representative of the board may grant an interim temporary externship supervisor registration that will suffice until the next regular meeting of the board.]~~ In no event shall the externship supervisor begin supervising an extern until the externship supervisor registration [or interim temporary externship supervisor registration] is issued by the board. The application requirements for an externship supervisor registration shall be receipt of the following by the board:

- A. the fee for application for externship supervisor registration specified in 16.2.10 NMAC;
- B. [an] a complete application for externship supervisor registration ~~[that is complete and in English on a form provided by the board]~~ that shall include the applicant's name, address, date of birth and social security number, or individual tax identification number, if available;
- C. proof of five years of clinical experience; and
- D. proof of maintaining a clinical facility; and
- E. proof of appropriate professional and facility insurance; and
- F. an affidavit as provided on the "extern supervisor registration application" stating that the applicant understands that:
 - (1) the scope of practice of an extern shall be limited to the practice of acupuncture and oriental medicine as defined in the act and 16.2.2 NMAC, except

that the extern shall not prescribe or administer any herbal, nutritional, homeopathic or any other medicines or substances; when diagnosing and treating a patient, the extern shall practice only within the limits of his or her education and training; the extern shall possess and apply the knowledge, and use the skill and care ordinarily used by reasonably well-qualified doctors of oriental medicine practicing under similar circumstances, giving due consideration to their limited clinical experience; and

(2) the extern certification shall expire automatically 12 months after the date of issuance unless the certificate expires sooner for any of the following reasons:

- (a) upon licensure;
- (b) if the extern fails the board's clinical skills examination more than once; or
- (c) if the extern is no longer under the supervision of the externship supervisor; and

(3) in no event shall an extern practice under extern certification(s) for more than a total of 12 months or after failing the board's clinical skills examination more than once; the extern certification is not renewable; exceptions for good cause shall not apply to the extern certification; and

(4) the extern supervisor shall not be a member of the extern's family or a member of the extern's household or have a conflict of interest with the extern as defined in 16.2.14.19 NMAC; and

G. an affidavit as provided on the "extern supervisor registration application" stating that the applicant understands that the externship supervisor shall:

- (1) provide a clinical environment where the extern is able to further his or her knowledge and apply acupuncture and oriental medicine theory and techniques; and
- (2) directly supervise the extern on the premises of the treating facility at all times and be available for consultation,

intervention, and decisions about patient care; and

(3) supervise no more than two externs at any given time and have no more than two externs in his or her externship program at a time; and

(4) inform patients with a written signed consent form outlining the responsibility of the extern and the scope and limits of practice; and

(5) prescribe all herbal, nutritional, homeopathic and any natural substances; any recommendations of these substances by the extern must be signed by the externship supervisor; and

(6) approve the diagnosis and treatment plan and oversee the techniques of oriental medicine and delivery of patient care; and

(7) notify the board in writing, within five days working days, when the extern enters into an extern supervisory contract with the externship supervisor or terminates the externship participation; and

(8) be responsible for the delivery of competent professional services, obtaining patient consents, and maintaining patient records; and

(9) document approval and oversight of diagnosis, treatment, and patient care in the patient's permanent file; and

(10) terminate the externship relationship if the externship supervisor has the reasonable belief that the extern has violated the act or the rules or if a conflict of interest arises during the supervision; the externship supervisor shall notify the board, in writing, within five working days that the externship relationship is terminated and give the reasons for the termination; and

(11) the extern supervisor must notify the board within ten days if the extern supervisor's address changes; and

(12) the board may refuse to issue, or may suspend, or revoke any license, externship

supervisor registration or externship supervisor registration in accordance with the Uniform Licensing Act, 61-1-1 to 61-1-31 NMSA 1978, for reasons authorized in section 61-14A-17 NMSA 1978 of the act and clarified in 16.2.12 NMAC. [16.2.14.12 NMAC - Rp, 16.2.14.12 NMAC, 2/11/2022; A, 10/22/2024]

**REGULATION
AND LICENSING
DEPARTMENT
ACUPUNCTURE AND
ORIENTAL MEDICINE,
BOARD OF**

This is an amendment to Section 9, 10, 11, 12, 14, 15 and 16 of 16.2.15 NMAC, effective 10/22/2024.

16.2.15.9 INACTIVE LICENSE APPLICATION: A licensee in good standing may apply to have his or her license placed on inactive status. Upon ~~[approval]~~ submission of ~~[an]~~ complete application for an inactive license that fulfills the requirements listed below, the board shall place the license on inactive status. ~~[The application requirements for an inactive license shall be receipt of the following by the board:]~~

A. the administrative fee for inactive license application specified in 16.2.10 NMAC paid ~~[by check or money order]~~ in U.S. funds; and

B. ~~[an]~~ complete inactive license application ~~[that is complete and]~~ in English ~~[on a form provided by the board]~~ that shall include the applicant's name, address, date of birth and social security number, or individual tax identification number;

C. an affidavit provided on the inactive license application form as to whether the applicant since last renewing his or her license with the board:

(1) has been subject to any disciplinary action in any jurisdiction related to the practice of acupuncture and oriental medicine, or related to any other

profession including other health care professions for which the applicant is licensed, certified, registered or legally recognized to practice including resignation from practice, withdrawal or surrender of applicants license, certificate or registration during the pendency of disciplinary proceedings or investigation for potential disciplinary proceedings; or

(2) has been a party to litigation in any jurisdiction related to the applicants practice of acupuncture and oriental medicine, or related to any other profession including other health care professions for which the applicant is licensed, certified, registered or legally recognized to practice; or

(3) is in arrears on a court-ordered child support payment; or

(4) has violated any provision of the act or the rules; and

D. an official license history since last renewing his or her license with the board, which is a certificate from each jurisdiction stating the disciplinary record of the applicant, from each jurisdiction where the applicant has been licensed, certified, registered or legally recognized to practice acupuncture, oriental medicine or any other profession, including other health care professions, in any jurisdiction, pursuant to any authority other than the New Mexico Acupuncture and Oriental Medicine Practice Act; and

E. an affidavit as provided on the inactive license application form stating that the applicant understands that:

(1) an applicant who has been subject to any action or proceeding comprehended by Subsection C of 16.2.15.9 NMAC may be subject to disciplinary action at any time, including denial, suspension or revocation of licensure, pursuant to the provisions of the act, Section 61-14A-17 NMSA 1978; and subject to the Uniform Licensing Act, Section 61-1-1 NMSA 1978, et seq., and subject to the Criminal Offender Employment Act, Section 28-2-1 NMSA 1978, et seq; and

(2) an applicant who provides the board with false information or makes a false statement to the board may be subject to disciplinary action, including denial, suspension or revocation of licensure, pursuant to the provisions of the act, Section 61-14A-17 NMSA 1978, and the Uniform Licensing Act, Section 61-1-1, NMSA 1978, et seq.; and

F. an affidavit as provided on the inactive license application form stating that the applicant understands that:

(1) the applicant is responsible for reading, understanding and complying with the state of New Mexico laws and rules regarding this application as well as the practice of acupuncture and oriental medicine; and

(2) the applicant must notify the board within ten days if the applicant's address changes; and

(3) an inactive licensee shall comply with any continuing education requirements established by the board; and

(4) an inactive license shall expire after ~~[+5]~~ five years; and

(5) an inactive licensee shall not practice acupuncture and oriental medicine, as defined in the act, in New Mexico; an inactive licensee shall not represent himself or herself as a doctor of oriental medicine in public statements that include, but are not limited to, paid or unpaid advertising, brochures, printed or copied materials, electronic or digital media, directory listings, personal resumes or curricula vitae, business cards, interviews or comments for use in media, statements in legal proceedings, lectures and public presentations; an inactive licensee shall not teach acupuncture and oriental medicine at an educational program; and

(6) providing or offering to provide oriental medical services, engaging in the practice of acupuncture and oriental medicine or teaching acupuncture and oriental medicine at an educational program

by an inactive licensee shall be grounds for disciplinary action by the board for unprofessional conduct and potentially for other appropriate reasons pursuant to Section 61-14A-17 NMSA 1978 of the Act and 16.2.12 NMAC; and

(7) an inactive licensee shall comply with the appropriate requirements of Section 61-14A-17 NMSA 1978 of the Act and 16.2.12 NMAC; and

(8) the board will not accept an inactive license application from a licensee who is under investigation for violations of the act or who has an active complaint pending before the board with the exception of an impaired licensee who is participating in a rehabilitation plan approved by the board; and

G. an accurate translation in English of all documents submitted in a foreign language; each translated document shall bear the affidavit of the translator certifying that he or she is competent in both the language of the document and the English language and that the translation is a true and faithful translation of the foreign language original; each translated document shall also bear the affidavit of the applicant certifying that the translation is a true and faithful translation of the original; each affidavit shall be signed before a notary public; the translation of any document relevant to an application shall be at the expense of the applicant.

[16.2.15.9 NMAC - Rp, 16.2.15.9 NMAC, 2/11/2022; A, 10/22/2024]

16.2.15.10 INACTIVE LICENSE RENEWAL: An inactive license shall be renewed by July 31st of every year. Upon approval of an application for inactive license renewal that fulfills the requirements listed below, the board shall renew the inactive license. The application requirements for inactive license renewal shall be receipt of the following by the board:

A. the administrative fee for inactive license renewal specified in 16.2.10 NMAC paid [by

~~check or money order~~] in U.S. funds [~~, or by credit card in U.S. funds if using the board's online renewal process~~]; and

B. [an] complete inactive license application [~~that is complete and~~] in English [~~on a form provided by the board~~] that shall include the applicant's name, address, date of birth and social security number, or individual tax identification number;

C. an affidavit as provided on the inactive license renewal form stating that the applicant understands that:

(1) the applicant must notify the board within ten days if the applicant's address changes; and

(2) an inactive license shall expire after [~~15~~] five years; and

(3) an inactive license must be renewed annually. [16.2.15.10 NMAC - Rp, 16.2.15.10 NMAC, 2/11/2022; A, 10/22/2024]

16.2.15.11 INACTIVE LICENSE EXPIRATION: An inactive license that is not renewed by September 30 shall expire and the person shall be required to reapply for licensure as a new applicant. [16.2.15.11 NMAC - Rp, 16.2.15.11 NMAC, 2/11/2022; A, 10/22/2024]

16.2.15.12 INACTIVE LICENSE REINSTATEMENT GENERAL PROVISIONS: An inactive licensee whose license has been inactive for varying periods up to [~~15~~] five years may apply to have the inactive license reinstated. The following provisions apply:

A. applicants for inactive license reinstatement who has been subject to any action or proceeding comprehended by Subsection C of 16.2.15.13 NMAC may be subject to disciplinary action at any time, including denial, suspension or revocation of licensure, pursuant to the provisions of Section 61-14A-17 NMSA 1978, and subject to the Uniform Licensing Act, Section 61-1-1 NMSA 1978, et seq., and subject to the Criminal Offender

Employment Act, Section 28-2-1 NMSA 1978, et seq.;

B. applicants for inactive license reinstatement who provides the board with false information or makes a false statement to the board may be subject to disciplinary action at any time, including denial, suspension or revocation of licensure, pursuant to the provisions of Section 61-14A-17 NMSA 1978, and the Uniform Licensing Act, Section 61-1-1 NMSA 1978, et seq.;

C. the board will not approve an inactive license reinstatement application from an inactive licensee who is under investigation for violations of the act or who has an active complaint pending before the board;

D. the board will not approve an inactive license reinstatement application from an impaired inactive licensee, or an impaired inactive licensee who is currently participating in a rehabilitation plan approved by the board until the rehabilitation plan is successfully completed. Impaired means the inability to practice acupuncture and oriental medicine with reasonable skill and safety to patients as a result of mental illness or habitual or excessive use or abuse of alcohol or drugs as defined in the Controlled Substances Act, Section 30-31-1 NMSA 1978 et seq.; and

E. once an inactive license has been reinstated, the licensee may not apply for inactive license status again for five years. [16.2.15.12 NMAC - Rp, 16.2.15.12 NMAC, 2/11/2022; A, 10/22/2024]

~~[16.2.15.14 INACTIVE LICENSE REINSTATEMENT APPLICATION - FIVE TO TEN YEARS:~~ An inactive licensee whose license has been inactive for more than five years and less than ten years may apply to have their inactive license reinstated. Upon approval of an application for inactive license reinstatement that fulfills the requirements listed below, the board shall reinstate the inactive license. The application requirements for

inactive license reinstatement shall be receipt of the following by the board:

~~A.~~ fulfillment of the requirements of 16.2.15.13 NMAC; and

~~B.~~ either of the following:

~~(1)~~ proof of clinical experience, as defined in 16.2.1.7 NMAC for at least two out of every three years in another jurisdiction where the inactive licensee was licensed, certified, registered or legally recognized to practice acupuncture and oriental medicine, while the license was on inactive status; or

~~(2)~~ proof of completion of 300 hours of clinical experience as an extern supervised by an externship supervisor as part of an externship as provided in 16.2.14 NMAC.;

[16.2.15.14 NMAC - Rp, 16.2.15.14 NMAC, 2/11/2022]

~~16.2.15.15 INACTIVE LICENSE REINSTATEMENT APPLICATION - MORE THAN 10 YEARS:~~

An inactive licensee whose license has been inactive for more than 10 years may apply to have their inactive license reinstated. Upon approval of an application for inactive license reinstatement that fulfills the requirements listed below, the board shall reinstate the inactive license. The application requirements for inactive license reinstatement shall be receipt of the following by the board:

~~A.~~ fulfillment of the requirements of 16.2.15.13 NMAC;

~~B.~~ passing the clinical skills examination;

~~C.~~ passing the board approved jurisprudence examination; and

~~D.~~ either of the following:

~~(1)~~ proof of clinical experience, as defined in 16.2.1.7 NMAC for at least two out of every three years in another jurisdiction where the inactive licensee was licensed, certified, registered or legally recognized to practice acupuncture and oriental medicine, while the license was on

inactive status; or

~~(2)~~ proof of completion of 600 hours of clinical experience as an extern supervised by an externship supervisor as part of an externship as provided in 16.2.14 NMAC.;

[16.2.15.15 NMAC - Rp, 16.2.15.15 NMAC, 2/11/2022]

~~16.2.15.16~~

~~16.2.15.14 INACTIVE LICENSE EXPIRATION:~~ An inactive license that has been inactive for more than [15] five years shall expire and the person who was previously licensed shall be required to apply as a new applicant.

[16.2.15.14 NMAC - Rp, 16.2.15.16 NMAC, 2/11/2022, Rn and A, 10/22/2024]

~~16.2.15.15 [RESERVED]~~

~~16.2.15.16 [RESERVED]~~

REGULATION AND LICENSING DEPARTMENT ACUPUNCTURE AND ORIENTAL MEDICINE, BOARD OF

This is an amendment to 16.2.16 NMAC, Section 10, 13, 17, 18, 19, 26, 27 and 28 effective 10/22/2024.

~~16.2.16.10 CERTIFIED AURICULAR DETOXIFICATION SPECIALIST CERTIFICATION APPLICATION:~~

Upon [approval] submission of a complete application for certified auricular detoxification specialist [application] that fulfills the requirements listed below, the board shall issue a certified auricular detoxification specialist certification that will be valid until July 31 following the initial certification. [In the interim between regular board meetings, whenever a qualified applicant for certified auricular detoxification specialist certification has filed his or her application and complied with all other requirements of this section, the board's chairman or an authorized representative of the

board may grant an interim temporary certified auricular detoxification specialist certification that will suffice until the next regular meeting of the board.] In no event shall the applicant begin the practice of auricular detoxification until the certified auricular detoxification specialist certification [or interim temporary certified auricular detoxification specialist certification] is issued by the board. [The application requirements for certified auricular detoxification specialist certification shall be receipt of the following by the board:]

~~A.~~ the auricular detoxification specialist certification application fee specified in 16.2.10 NMAC; and

~~B.~~ [an] a application for certified auricular detoxification specialist certification that is complete and in English [on a form provided by the board] that shall include the applicant's name, address, date of birth and social security number if the applicant has one; and

~~C.~~ two passport-type photographs of the applicant taken not more than six months prior to the submission of the application; and

~~D.] C.~~ a copy of the applicant's high school diploma or high school general equivalency diploma (GED) or diploma of higher education; and

~~E.] D.~~ a copy of the applicant's certificate of successful completion of a board approved auricular detoxification specialist training program; and

~~F.] E.~~ the name of the auricular detoxification supervisor(s) registered with the board who will supervise the applicant if known; and

~~G.] F.~~ an affidavit as provided on the certified auricular detoxification specialist application form as to whether the applicant:

~~(1)~~ has been subject to any disciplinary action in any jurisdiction related to the practice of acupuncture and oriental medicine, the practice of auricular detoxification, the provision of medical or counseling services for disease prevention, harm reduction

or the treatment or prevention of alcoholism, substance abuse or chemical dependency, or related to any other profession including other health care professions for which the applicant is licensed, certified, registered or legally recognized to practice including resignation from practice, withdrawal or surrender of applicants license, certificate or registration during the pendency of disciplinary proceedings or investigation for potential disciplinary proceedings; or

(2) has been a party to litigation in any jurisdiction related to the applicants practice of acupuncture and oriental medicine, the practice of auricular detoxification, the provision of medical or counseling services for disease prevention, harm reduction or the treatment or prevention of alcoholism, substance abuse or chemical dependency, or related to any other profession including other health care professions for which the applicant is licensed, certified, registered or legally recognized to practice; or

(3) is in arrears on a court-ordered child support payment; or

(4) has violated any provision of the act or the rules; and

[H:] G. an affidavit as provided on the certified detoxification specialist application form attesting the disciplinary record of the applicant with regard to each jurisdiction where the applicant has been licensed, certified, registered or legally recognized to practice any profession, including health care professions, in any jurisdiction, under any authority other than the New Mexico Acupuncture and Oriental Medicine Practice Act; and

[H:] H. an affidavit as provided on the certified auricular detoxification specialist application form certifying that all documents submitted with the form are true and faithful copies of the original; and

[H:] L. an affidavit as provided on the certified auricular detoxification specialist application

form certifying a record free of convictions for drug or alcohol related offenses for at least two consecutive years before the submission of the certified auricular detoxification specialist application; and

[K:] J. an affidavit as provided on the certified auricular detoxification specialist application form stating that the applicant understands that:

(1) an applicant who has been subject to any action or proceeding comprehended by Subsection G of 16.2.16.10 NMAC may be subject to disciplinary action at any time, including denial, suspension or revocation of certification, pursuant to the provisions of the act, Section 61-14A-17 NMSA 1978; and subject to the Uniform Licensing Act, Section 61-1-1 NMSA 1978, et seq., and subject to the Criminal Offender Employment Act, Section 28-2-1 NMSA 1978, et seq.; and

(2) an applicant who provides the board with false information or makes a false statement to the board may be subject to disciplinary action, including denial, suspension or revocation of certification, pursuant to the provisions of the act, Section 61-14A-17 NMSA 1978, and the Uniform Licensing Act, Section 61-1-1 NMSA 1978, et seq.; and

(3) the applicant is responsible for reading, understanding and complying with the state of New Mexico laws and rules regarding this application as well as the practice of auricular detoxification; and

(4) the certified auricular detoxification specialist certification must be renewed annually by July 31; and

(5) if the relationship with an auricular detoxification specialist supervisor terminates for any reason, to continue working, the certified auricular detoxification specialist must arrange to be supervised by another auricular detoxification specialist supervisor and notify the board within ~~five~~ 30 working days; and

(6) the applicant must notify the board within ten days if the applicant's address changes; and

(7) the board may refuse to issue, or may suspend, or revoke any license, certified auricular detoxification specialist certification or auricular detoxification specialist supervisor registration in accordance with the Uniform Licensing Act, 61-1-1 to 61-1-31 NMSA 1978, for reasons authorized in Section 61-14A-17 NMSA 1978 of the act and clarified in 16.2.12 NMAC; and

[H:] K. an affidavit as provided on the certified auricular detoxification specialist application form stating that the applicant understands that a certified auricular detoxification specialist is authorized to perform only the following, for the purpose of harm reduction or treating and preventing alcoholism, substance abuse or chemical dependency and only within a board approved treatment program that demonstrates experience in disease prevention, harm reduction, or the treatment or prevention of alcoholism, substance abuse or chemical dependency:

(1) auricular acupuncture detoxification using the five auricular point national acupuncture detoxification association (NADA) procedure or other board approved auricular procedures; and

(2) the application to the ear of simple board approved devices that do not penetrate the skin using the five auricular point national acupuncture detoxification association (NADA) procedure or other board approved auricular procedure and that the board approved devices that do not penetrate the skin are: seeds, grains, stones, metal balls, magnets and any small sterilized, spherical object that is non-reactive with the skin; and

[M:] L. a board approved clean needle technique examination and the board approved jurisprudence examination covering the act and the rules with passing scores of not less than ninety percent.

~~[N:]~~ M. an accurate translation in English of all documents submitted in a foreign language; each translated document shall bear the affidavit of the translator certifying that he or she is competent in both the language of the document and the English language and that the translation is a true and faithful translation of the foreign language original; each translated document shall also bear the affidavit of the translator certifying that the translation is a true and faithful translation of the original; each affidavit shall be signed before a notary public; the translation of any document relevant to an application shall be at the expense of the applicant.

[16.2.16.10 NMAC - Rp, 16.2.16.10 NMAC, 2/11/2022; A, 10/22/2024]

16.2.16.13 CERTIFIED AURICULAR DETOXIFICATION SPECIALIST RENEWAL:

Upon ~~[approval]~~ submission of a complete renewal application for certified auricular detoxification specialist ~~[renewal application]~~ that fulfills the requirements listed below, the board shall renew the certification, which shall be valid until July 31 of the next year. ~~[The application requirements for certification renewal shall be receipt of the following by the board:]~~

A. the auricular detoxification specialist certification renewal fee specified in 16.2.10 NMAC paid ~~[by check or money order]~~ in U.S. funds, ~~[or by credit card in U.S. funds if using the board's online renewal process];~~ and

B. a complete renewal application for certified auricular detoxification specialist ~~[renewal application that is complete and]~~ in English ~~[on a form provided by the board]~~ that shall include the applicant's name, address, date of birth and social security number, or individual tax identification number; and

C. the name of the auricular detoxification specialist supervisor(s) registered with the board who will supervise the applicant if known and notice of which of these is to be the primary supervisor; and

D. an affidavit as provided on the certified auricular detoxification specialist renewal form as to whether the applicant since last receiving or renewing his or her certification with the board:

(1) has been subject to any disciplinary action in any jurisdiction related to the practice of auricular detoxification, or related to any other profession including other health care professions for which the applicant is licensed, certified, registered or legally recognized to practice including resignation from practice, withdrawal or surrender of applicants license, certificate or registration during the pendency of disciplinary proceedings or investigation for potential disciplinary proceedings; or

(2) has been a party to litigation in any jurisdiction related to the applicant's practice of auricular detoxification, or related to any other profession including other health care professions for which the applicant is licensed, certified, registered or legally recognized to practice; or

(3) is in arrears on a court-ordered child support payment; or

(4) has violated any provision of the act or the rules; and

E. an affidavit as provided on the certified auricular detoxification specialist renewal form certifying a record free of convictions for drug or alcohol related offenses for a minimum of one year prior to application for renewal; and

F. an affidavit as provided on the certified auricular detoxification specialist renewal form stating that the applicant understands that:

(1) an applicant who has been subject to any action or proceeding comprehended by Subsection C of 16.2.8.10 NMAC may be subject to disciplinary action at any time, including denial, suspension or revocation of licensure, pursuant to the provisions of the act, Section 61-14A-17 NMSA 1978; and subject to the Uniform Licensing Act,

Section 61-1-1 NMSA 1978, et seq. and subject to the Criminal Offender Employment Act, Section 28-2-1 NMSA 1978, et seq.; and

(2) an applicant who provides the board with false information or makes a false statement to the board may be subject to disciplinary action, including denial, suspension or revocation of licensure, pursuant to the provisions of the act, Section 61-14A-17 NMSA 1978, and the Uniform Licensing Act, Section 61-1-1 NMSA 1978, et seq.; and

G. an affidavit as provided on the certified auricular detoxification specialist renewal form stating that the applicant understands that:

(1) the applicant is responsible for reading, understanding and complying with the state of New Mexico laws and rules regarding this application as well as the practice of auricular detoxification and supervision; and

(2) the certification must be renewed annually by July 31; and

(3) the applicant must notify the board within ten days if the applicant's address changes; and

H. if the applicant renews using the board's online application process, the applicant shall check all appropriate affidavit check boxes in the online application and the applicant's agreement to pay by credit card shall be equivalent to the applicant's witnessed signature and notary's stamp and signature normally required by the above affidavits; and

I. an accurate translation in English of all documents submitted in a foreign language; each translated document shall bear the affidavit of the translator certifying that he or she is competent in both the language of the document and the English language and that the translation is a true and faithful translation of the foreign language original; each translated document shall also bear the affidavit of the translator certifying that the

translation is a true and faithful translation of the original; each affidavit shall be signed before a notary public; the translation of any document relevant to an application shall be at the expense of the applicant; and

J. satisfactory proof as determined by the board of completion of any continuing education requirements established by the board.

[16.2.16.13 NMAC - Rp, 16.2.16.13 NMAC, 2/11/2022; A, 10/22/2024]

16.2.16.17 AURICULAR DETOXIFICATION SPECIALIST SUPERVISOR REQUIREMENTS AND RESPONSIBILITIES:

A. The auricular detoxification specialist supervisor shall:

(1) be a licensed doctor of oriental medicine;

(2) be registered with the board as an auricular detoxification specialist supervisor;

(3) supervise no more than 30 certified auricular detoxification specialists;

(4) be accessible for consultation directly or by telephone to a certified auricular detoxification specialist under his or her supervision;

(5) directly visit each certified auricular detoxification specialist under ~~his~~ their supervision at the treatment program site at intervals of ~~[not more than]~~ at least once every [six] 12 weeks with the first visit occurring not more than ~~[two]~~ four weeks after supervision has begun for the first year, then at least once per year thereafter at the supervisor's discretion with regular meetings by electronic methods (telephone, email, teleconferencing as examples) at intervals to be determined by the supervisor;

(6) be responsible for having each certified auricular detoxification specialist under their supervision require each patient to complete a written, signed consent form outlining the

responsibilities of the certified auricular detoxification specialist, the nature of the treatment, expected outcomes, and the scope and limits of practice;

(7) ensure that the certified auricular detoxification specialist is following a board approved treatment protocol; and

(8) notify the board in writing, within five working days, when a certified auricular detoxification specialist enters into a supervisory relationship with the auricular detoxification specialist supervisor, or the supervisory relationship is terminated; and

B. an auricular detoxification specialist supervisor shall be responsible for the delivery of competent, professional services and ensuring that patient consents are obtained; and

C. the auricular detoxification specialist supervisor shall terminate the supervisory relationship if the auricular detoxification specialist supervisor has the reasonable belief that the certified auricular detoxification specialist has violated the act or the rules; in such case the auricular detoxification specialist supervisor shall notify the board and the certified auricular detoxification specialist's employer, in writing, within five working days that the supervisory relationship is terminated and give in writing the reasons for the termination.

[16.2.16.17 NMAC - Rp, 16.2.16.17 NMAC, 2/11/2022; A, 10/22/2024]

16.2.16.18 AURICULAR DETOXIFICATION SPECIALIST SUPERVISOR REGISTRATION APPLICATION:

Upon ~~[approval]~~ submission of [an] a complete application for auricular detoxification specialist supervisor registration ~~[application]~~ that fulfills the requirements listed below, the board shall issue an auricular detoxification specialist supervisor registration ~~[that will be valid until July 31 following the initial registration. In the interim between regular board meetings, whenever a qualified applicant for~~

~~auricular detoxification specialist supervisor registration has filed their application and complied with all other requirements of this section, the board's chair or an authorized representative of the board may grant an interim temporary auricular detoxification specialist supervisor registration that will suffice until the next regular meeting of the board.]~~

In no event shall the auricular detoxification specialist supervisor begin supervising a certified auricular detoxification specialist until the auricular detoxification specialist supervisor registration ~~[or interim temporary auricular detoxification specialist supervisor registration]~~ is issued by the board. ~~[The application requirements for an auricular detoxification specialist supervisor registration shall be receipt of the following by the board:]~~

A. the auricular detoxification specialist supervisor registration application fee specified in 16.2.10 NMAC;

B. proof of successful completion of an official national acupuncture detoxification association (NADA) course, or another board-approved training program, or a CV demonstrating experience, or education in the field of harm reduction and alcoholism, substance abuse and chemical dependency at least equivalent to that provided in a NADA training, and three letters of reference attesting to the applicant's competence and experience in the field of auricular treatment for harm reduction, auricular treatment of alcoholism, substance abuse or chemical dependency;

C. ~~[an] a complete~~ application for auricular detoxification specialist supervisor registration ~~[that is complete and]~~ in English ~~[on a form provided by the board]~~ that shall include the applicant's name, address, date of birth and social security number, or individual tax identification number;

D. the names of all certified auricular detoxification specialists certified with the board who are under the supervision of the applicant;

E. an affidavit as provided on the auricular detoxification specialist supervisor registration application form stating that the applicant understands that:

(1) a certified auricular detoxification specialist is authorized to perform only the following, for the purpose of harm reduction or treating and preventing alcoholism, substance abuse or chemical dependency and only within a board approved substance abuse treatment program that demonstrates experience in disease prevention, harm reduction, or the treatment or prevention of alcoholism, substance abuse or chemical dependency:

(a) auricular acupuncture detoxification using the five auricular point national acupuncture detoxification association (NADA) procedure or other board approved procedure; and

(b) the application to the ear of simple board approved devices that do not penetrate the skin using the five auricular point national acupuncture detoxification association (NADA) procedure and that the board approved devices that do not penetrate the skin are: seeds, grains, stones, metal balls, magnets and any small sterilized, spherical object that in non-reactive with the skin; and

(2) the auricular detoxification specialist supervisor shall not be a member of the certified auricular detoxification specialist's family or a member of the certified auricular detoxification specialist's household or have a conflict of interest with the certified auricular detoxification specialist as defined in 16.2.16.21 NMAC; exceptions may be made by the board on an individual basis due to limited availability of certified auricular detoxification specialists or supervisors; and

(3) the applicant is responsible for reading, understanding and complying with the state of New Mexico laws and rules regarding this application as well as the practice of auricular detoxification and supervision; and

(4) the board may refuse to issue, or may suspend, or revoke any license or auricular detoxification specialist supervisor registration in accordance with the Uniform Licensing Act, 61-1-1 to 61-1-31 NMSA 1978, for reasons authorized in Section 61-14A-17 NMSA 1978 of the Act and clarified in 16.2.12 NMAC; and

F. an affidavit as provided on the auricular detoxification specialist supervisor registration application form stating that the applicant understands that the auricular detoxification specialist supervisor shall:

(1) be registered with the board as an auricular detoxification specialist supervisor;

(2) supervise no more than 30 certified auricular detoxification specialists;

(3) be accessible for consultation directly or by telephone to a certified auricular detoxification specialist under their supervision;

(4) [directly] visit each certified auricular detoxification specialist under his supervision at the treatment program site at intervals of not more than six weeks for the first year, then at least once per year thereafter at the supervisor's discretion with regular meetings by electronic methods (telephone, email, teleconferencing as examples) at intervals to be determined by the supervisor;

(5) verify that each certified auricular detoxification specialist under their supervision has had each patient sign a consent form outlining the responsibilities of the certified auricular detoxification specialist, the nature of the treatment, expected outcomes, and the scope and limits of practice;

(6) ensure that the certified auricular detoxification specialist is using a board approved treatment protocol;

(7) notify the board in writing, within [five] 30 days working days, when a certified auricular detoxification specialist

enters into a supervisory relationship with the auricular detoxification specialist supervisor or the supervisory relationship is terminated;

(8) be responsible for the delivery of competent professional services and ensuring that patient consents have been obtained;

(9) terminate the supervisory relationship if the auricular detoxification specialist supervisor has the reasonable belief that the certified auricular detoxification specialist has violated the act or the rules or if a conflict of interest arises during the supervision; the auricular detoxification specialist supervisor shall notify the board and the CADS's employer, in writing, within [five] 30 working days that the supervisory relationship is terminated and give in writing the reasons for the termination; and

(10) notify the board within ten days if the auricular detoxification supervisor's address changes or phone number changes. [16.2.16.18 NMAC - Rp, 16.2.16.18 NMAC, 2/11/2022; A, 10/22/2024]

16.2.16.19 CHANGE OF SUPERVISOR: If the auricular detoxification specialist supervisor relationship terminates for any reason, each party must notify the board in writing within [five] 30 working days of this fact. [16.2.16.19 NMAC - Rp, 16.2.16.19 NMAC, 2/11/2022; A, 10/22/2024]

16.2.16.26 AURICULAR DETOXIFICATION SPECIALIST TRAINING PROGRAM APPROVAL: Upon [approval] submission of [an] a complete application for auricular detoxification specialist training program approval [application] that fulfills the requirements listed below, the board shall issue an auricular detoxification specialist training program approval that will be valid until July 31 following the initial registration. [~~In the interim between regular board meetings, whenever a qualified applicant for auricular detoxification specialist training program approval~~]

has filed an application and complied with all other requirements of this section, the board's chairman or an authorized representative of the board may grant an interim temporary auricular detoxification specialist training program approval that will suffice until the next regular meeting of the board. The application requirements for an auricular detoxification specialist training program approval shall be receipt of the following by the board:]

A. the auricular detoxification specialist training program approval application fee specified in 16.2.10 NMAC; and

B. [an] a complete application for auricular detoxification specialist training program approval [that is complete and] in English [on a form provided by the board] that shall include the applicant's name, address, phone number, fax number and email address, if available; and

C. a curriculum that shall include at least:

(1) 30 hours of classroom didactic education covering the following subjects related to auricular detoxification: history and overview of the auricular detoxification profession; point descriptions, and locations and use of the NADA five auricular point national acupuncture detoxification association (NADA) procedure or other board approved procedures; acupuncture needle description, insertion and removal techniques, the use of devices that do not penetrate the skin of the ear; trial treatment (explanation of what happens during a treatment and practice on class members); public health and laws and regulations; exposure control; clean needle technique training; occupational health and safety administration (OSHA) requirements; integration of auricular detoxification within the treatment program; concepts of acupuncture and oriental medicine as related to addiction and recovery (the concept of "empty fire", etc.); client management issues and strategies (special populations); ethical and legal issues (confidentiality, HIPAA, the pertinent

laws and rules of the state of New Mexico, etc.); and the nature of addiction and recovery; and

(2) 40 client hours (40 successfully completed treatments) under direct supervision by a board approved CADS supervisor at a site and with a supervisor pre-approved in writing by the training program, documented by a HIPAA-compliant form in which the privacy of clients is respected; and

D. an affidavit as provided on the auricular detoxification specialist training program approval application form stating that the applicant understands that:

(1) the auricular detoxification specialist training program must provide each person who successfully completes the approved program with a certification of completion; and

(2) the auricular detoxification specialist training program registration must be renewed annually by July 31; and

(3) the auricular detoxification specialist training program must notify the board within ten days if the program's address or phone number changes; and

(4) the board may refuse to issue, or may suspend, or revoke any auricular detoxification specialist training program approval in accordance with the Uniform Licensing Act, 61-1-1 to 61-1-31 NMSA 1978, for reasons authorized in Section 61-14A-17 NMSA 1978 of the Act and clarified in 16.2.12 NMAC; and

E. the name or names of the trainer(s) who shall be teaching in the program and copies of their qualifications as trainers from NADA or other oriental medicine and auricular acupuncture drug detoxification, harm reduction, substance abuse or relapse-prevention-related education and experience approved by the board to train auricular detoxification specialist trainers; and

F. approval of a training program shall entail

recognition that its trainers have the status of certified auricular detoxification specialists and CADS supervisors within and for the purpose of and for the duration of a training course.

[16.2.16.26 NMAC - Rp, 16.2.16.26 NMAC, 2/11/2022; A, 10/22/2024]

16.2.16.27 AURICULAR DETOXIFICATION SPECIALIST TRAINING PROGRAM

RENEWAL: Upon [approval] submission of [an] complete renewal application for auricular detoxification specialist training program [renewal application] that fulfills the requirements listed below, the board shall renew the approval, which shall be valid until July 31 of the next year. [The application requirements for approval renewal shall be receipt of the following by the board:]

A. the auricular detoxification specialist training program approval renewal fee specified in 16.2.10 NMAC paid [by check or money order] in U.S. funds [or by credit card in U.S. funds if using the board's online renewal process]; and B. [an] complete renewal application for auricular detoxification specialist training program approval [renewal that is complete and] in English [on a form provided by the board] that shall include the applicant's name, address, phone number, fax number and email address, if available; and

C. an affidavit as provided on the auricular detoxification specialist training program renewal of approval application form stating that the program continues to provide at a minimum the curriculum required by the board in 16.2.16.26 NMAC; and

D. an affidavit as provided on the auricular detoxification specialist training program renewal of approval application form stating that the applicant understands that:

(1) the auricular detoxification specialist training program must provide each person who successfully completes

the approved program with a certificate of completion; and
 (2) the auricular detoxification specialist training program registration must be renewed annually by July 31; and
 (3) the auricular detoxification specialist training program must notify the board within 10 days if the program's address or phone number changes; and

(4) the board may refuse to issue, or may suspend, or revoke any auricular detoxification specialist training program approval in accordance with the Uniform Licensing Act, 61-1-1 to 61-1-31 NMSA 1978, for reasons authorized in Section 61-14A-17 NMSA 1978 of the act and clarified in 16.2.12 NMAC; and

E. if the applicant renews using the board's online application process, the applicant shall check all appropriate affidavit check boxes in the online application and the applicant's agreement to pay by credit card shall be equivalent to the applicant's witnessed signature and notary's stamp and signature normally required by the above affidavits.

[16.2.16.27 NMAC - Rp, 16.2.16.27 NMAC, 2/11/2022; A, 10/22/2024]

16.2.16.28 TREATMENT PROGRAM APPROVAL: All treatment programs focused on disease prevention, harm reduction or the treatment or prevention of alcoholism, substance abuse or chemical dependency that are officially recognized by a federal, state or local government agency shall automatically be approved by the board. Upon approval submission of a complete application for a treatment program [~~application for approval~~] that fulfills the requirements listed below, the board shall issue a treatment program approval. [~~In the interim between regular board meetings, whenever a qualified applicant for a treatment program approval has filed an application and complied with all other requirements of this section, the board's chairman~~

~~or an authorized representative of the board may grant an interim temporary treatment program approval that will suffice until the next regular meeting of the board. The application requirements for a treatment program approval shall be receipt of the following by the board:]~~

A. the treatment program approval application fee specified in 16.2.10 NMAC;

B. [an] complete application for treatment program approval [~~that is complete and~~] in English [~~on a form provided by the board~~] that shall include the applicant's name, address, phone number, fax number and email address, if available, and:

(1) affidavit that the treatment program is for disease prevention, harm reduction or the treatment or prevention of alcoholism, substance abuse or chemical dependency;

(2) whether the facility is at a fixed address or is mobile;

(3) the name of the director of the program;

(4) the number and qualifications of the treatment staff; and

(5) the name of the auricular detoxification supervisor and the certified auricular detoxification specialist, if known; and

C. an affidavit as provided on the treatment program approval application form stating that the facility has access to a toilet and a sink; and

D. an affidavit as provided on the treatment program approval application form stating that the applicant understands that:

(1) the treatment program must notify the board within 10 days if the program's address or phone number changes; and

(2) the board may refuse to issue, or may suspend, or revoke any treatment program approval in accordance with the Uniform Licensing Act, 61-1-1 to 61-1-31 NMSA 1978, for reasons

authorized in Section 61-14A-17 NMSA 1978 of the act and clarified in 16.2.12 NMAC.
 [16.2.16.28 NMAC - Rp, 16.2.16.28 NMAC, 2/11/2022; A, 10/22/2024]

REGULATION AND LICENSING DEPARTMENT ACUPUNCTURE AND ORIENTAL MEDICINE, BOARD OF

This is an amendment to 16.2.17 NMAC, Section 9, 10, 11 and 16 effective 10/22/2024.

16.2.17.9 EDUCATIONAL PROGRAM REQUIREMENTS:

A. An applicant for licensure by endorsement shall provide proof that he completed an educational program in acupuncture that fulfilled the requirements of the national certification commission for acupuncture and oriental medicine in place in 1992 or if graduated after 1992 is in compliance with the educational program requirements in 16.2.7 NMAC or that was accredited by the accreditation commission for acupuncture and herbal medicine, ACAHM.

B. If the educational program is no longer in existence, or if the applicant's records are not available for good cause, the applicant for licensure by endorsement shall submit an affidavit so stating and shall identify the educational program, and shall provide the address, dates of enrollment, and curriculum completed, along with such other information and documents as the board shall deem necessary. The board, in its sole and sound discretion, may accept as adequate and sufficient or reject such evidence presented in lieu of the records otherwise required.

C. If an applicant graduated before 1992 from an educational program lacking annual approval status from the board for the year of graduation, as defined in 16.2.7.10 NMAC, then the applicant shall apply for a single instance review. The applicant must obtain an

approval of the educational program for use by a single applicant and will need to submit the following to the board:

(1) the required application fee as specified in 16.2.10 NMAC, paid ~~[by check or money order in]~~ U.S. funds; and
 (2) ~~[an]~~ a complete application ~~[on a form prescribed by the board, completed and]~~ in English, that contains the matriculation date for the educational program, the information necessary to verify that the standards of professional education required by 16.2.17.9 NMAC and an official copy of the curriculum.
 [16.2.17.9 NMAC - Rp, 16.2.17.9 NMAC, 2/11/2022; A, 4/25/2023; A, 10/22/2024]

16.2.17.10 INITIAL LICENSURE BY ENDORSEMENT APPLICATION:

Upon ~~[approval]~~ submission of a complete application for licensure by endorsement ~~[application]~~ that fulfills the requirements listed below, the board shall issue a license that will be valid until July 31 following the initial licensure. ~~[The application requirements for licensure by endorsement shall be receipt of the following by the board:]~~

A. the fee for application for licensure by endorsement specified in 16.2.10 NMAC;

B. a complete application for licensure by endorsement ~~[application that is complete and]~~ in English ~~[on a form provided by the board]~~ that shall include the applicant's name, address, date of birth and social security number, or individual tax identification number, if available;

~~[C. — two passport-type photographs of the applicant taken not more than six months prior to the submission of the application;]~~

~~[D.]~~ C. an affidavit as provided on the initial licensure by endorsement application form as to whether the applicant:

(1) has been subject to any disciplinary action

in any jurisdiction related to the practice of acupuncture or oriental medicine, or related to any other profession including other health care professions for which the applicant is licensed, certified, registered or legally recognized to practice including resignation from practice, withdrawal or surrender of applicants license, certificate or registration during the pendency of disciplinary proceedings or investigation for potential disciplinary proceedings;

(2) has been a party to litigation in any jurisdiction related to the applicants practice of acupuncture and oriental medicine, or related to any other profession including other health care professions for which the applicant is licensed, certified, registered or legally recognized to practice;

(3) is in arrears on a court-ordered child support payment; or

(4) has violated any provision of the act or the rules; and

~~[E.]~~ D. an official license history, which is a certificate from each jurisdiction stating the disciplinary record of the applicant, from each jurisdiction where the applicant has been licensed, certified, registered or legally recognized to practice any other profession, including other health care professions, in any jurisdiction, pursuant to any authority other than the New Mexico Acupuncture and Oriental Medicine Practice Act; and

~~[F.]~~ E. an affidavit as provided on the initial licensure by endorsement application form stating that the applicant understands that:

(1) an applicant who has been subject to any action or proceeding comprehended by Subsection D of 16.2.17.10 NMAC may be subject to disciplinary action at any time, including denial, suspension or revocation of licensure, pursuant to the provisions of the act, Section 61-14A-17 NMSA 1978; and subject to the Uniform Licensing Act, Section 61-1-1 NMSA 1978, et seq., and subject to the Criminal Offender Employment Act, Section 28-2-1, NMSA 1978 et seq.; and

(2) an applicant who provides the board with false information or makes a false statement to the board may be subject to disciplinary action, including denial, suspension or revocation of licensure, pursuant to the provisions of the act, Section 61-14A-17 NMSA 1978, and the Uniform Licensing Act, Section 61-1-1, NMSA 1978, et seq.; and

~~[G.]~~ F. an affidavit as provided on the initial licensure by endorsement application form stating that the applicant understands that:

(1) the applicant is responsible for reading, understanding and complying with the state of New Mexico laws and rules regarding this application as well as the practice of acupuncture and oriental medicine;

(2) the license must be renewed annually by July 31; and

(3) the applicant must notify the board within 10 days if the applicant's address changes; and

~~[H.]~~ G. a copy of the applicant's certificate or diploma from an educational program evidencing completion of the educational program in acupuncture as defined above in 16.2.17.9 NMAC; ~~[this copy shall include on it an affidavit certifying that it is a true copy of the original;]~~

~~[I.]~~ H. a copy of the applicant's transcript from the educational program in acupuncture or oriental medicine evidencing completion of the educational program in acupuncture as defined above in 16.2.17.9 NMAC; ~~[this copy shall include on it an affidavit certifying that it is a true copy of the original;]~~

~~[J.]~~ I. a copy of the applicant's license, certificate, registration or legal authority to practice acupuncture or oriental medicine in another state or jurisdiction of the United States;

~~[K.]~~ J. proof of clinical experience as required in Subsection A of 16.2.17.8 NMAC;

~~[L.]~~ K. proof of successful

completion of the examinations [required] requirements below in 16.2.17.11 NMAC; and

L. an accurate translation in English of all documents submitted in a foreign language; each translated document shall bear the affidavit of the translator certifying that he or she is competent in both the language of the document and the English language and that the translation is a true and faithful translation of the foreign language original; each translated document shall also bear the affidavit of the applicant certifying that the translation is a true and faithful translation of the original; each affidavit shall be signed before a notary public; the translation of any document relevant to an application shall be at the expense of the applicant.

M. proof of current basic life support, BLS, and CPR, with proof of having completed an American heart association, American red cross, or American safety and health institute approved course; hands-on supervised practice of clinical skills is required; the didactic portion may be completed on-line; a current copy of this card shall be submitted to the board at the time of the application.

[16.2.17.10 NMAC - Rp, 16.2.17.10 NMAC, 2/11/2022; A, 10/22/2024]

16.2.17.11 EXAMINATION REQUIREMENTS: The following requirements shall be received at the board's office within [24] 12 months of the receipt of the initial licensure by endorsement application:

A. proof of certification in oriental medicine by the national certification commission of acupuncture and oriental medicine (NCCAOM), or successful completion of [one of] the following examination options:

(1) the national certification commission for acupuncture and oriental medicine (NCCAOM) comprehensive written exam (acupuncture portion);

(2) the NCCAOM foundations of oriental

medicine module and the acupuncture module if completed after June 2004;

(3) the NCCAOM comprehensive written exam (Chinese herbology portion); or

(4) the NCCAOM foundations of oriental medicine module and the Chinese herbology module if completed after June 2004; and

B. proof of successful completion of the NCCAOM approved clean needle technique course;

C. proof of successful completion of the New Mexico clinical skills examination specified in 16.2.4.10 NMAC; and

D. proof of successful completion of the board approved and board administered jurisprudence examination specified in 16.2.4.10 NMAC

[16.2.17.11 NMAC - Rp, 16.2.17.11 NMAC, 2/11/2022; A, 10/22/2024]

16.2.17.16 EXPIRATION AND ABANDONMENT OF APPLICATION:

If all licensure by endorsement application requirements have not been met within [24] 12 months of the initial licensure by endorsement application, the application will expire and will be deemed abandoned. [~~Exceptions may be made, at the board's discretion, for good cause.~~] If the licensure by endorsement application is abandoned and the applicant for licensure by endorsement wants to reapply, the applicant for licensure by endorsement shall be required to submit the completed current licensure by endorsement application form, pay the current application fee and satisfy the requirements for licensure by endorsement in effect at the time of the new licensure by endorsement application. The board shall notify the applicant for licensure by endorsement of pending abandonment of the licensure by endorsement application by mail postmarked at least 60 days before the date of abandonment which is the expiration of the 24-month deadline for completing all requirements for licensure by endorsement. The board

shall notify the applicant for licensure by endorsement of abandonment of the application by mail postmarked no more than 21 days after the date of abandonment.

[16.2.17.16 NMAC - Rp, 16.2.17.16 NMAC, 2/11/2022; A, 10/22/2024]

REGULATION AND LICENSING DEPARTMENT ACUPUNCTURE AND ORIENTAL MEDICINE, BOARD OF

This is an amendment to 16.2.18 NMAC, Section 8, 9, 12, 13, 15, 19, 20, 24 and 25 effective 10/22/2024.

16.2.18.8 GENERAL REQUIREMENTS FOR EDUCATIONAL COURSE

APPROVAL: The board shall approve an educational course for a specific category of expanded practice upon completion of the following general requirements and the specific requirements listed for the specific category of expanded practice educational course approval. All courses, with the exception of basic injection therapy, shall adhere to ICE or NCCA credentialing standards. All references to application in this section refer to the educational course application.

A. The educational course shall provide at least the minimum number of hours of education in the areas listed for the specific category of educational course hours. One hour of education shall be equal to that defined by the accreditation commission for acupuncture and herbal medicine (ACAHM). The education shall be in addition to the education required to meet the minimum educational program requirements for licensure as a doctor of oriental medicine.

B. The educational course application shall include a description of the education being provided as required by the educational course general curriculum defined in 16.2.18.11 NMAC and the

educational course curriculum defined for the specific category of expanded practice for which the educational course is applying for approval.

C. The educational course application shall include the curriculum vitae for all teachers, and proposed substitute teachers all classes shall be taught by qualified teachers approved by the board, provided the following conditions are met:

(1) the education in the pharmacology of the authorized substances shall be taught by a licensed pharmacist, Pharm D or a Ph.D. in pharmacology; and

(2) the education in the clinical therapeutic use of the authorized substances shall be taught by a licensed health care practitioner with appropriate training and a minimum of five years experience using the authorized substances.

D. The educational course application shall include documentation that all required clinical practice hours shall have a teacher to student ratio of at least one teacher to no more than eight students.

E. The educational course application shall include examples of the test questions that students enrolled in the course are required to successfully pass in order to ensure competence in all required areas. Testing methodology shall be approved by the board and with the exception of basic injection therapy, the testing shall be administered, subject to approval by a credentialed PhD psychometrician, as described in the ICE or NCCA credentialing standards and as approved by the board. The educational course shall send all student test scores and evaluation scores directly to the board.

F. The educational course application shall include an example of the certificate that shall be given for successful completion of the educational course.

G. Each educational course shall be completed within two years of commencement of that course.

H. A student who is allergic or hypersensitive to an authorized substance may be excused from participating in clinical practice when such an authorized substance is being used.

I. A board member or an agent of the board has the authority to observe, audit and evaluate educational courses at any time after an application has been filed. A course audit or evaluation may result in denial, suspension or revocation of the course's approval by the board in accordance with law.

J. The educational course provider shall specify whether the organization offering the educational course is a sole proprietorship, partnership, LLC, corporation or non-profit corporation and shall provide proof of such legal business status.

K. An educational course shall submit a new application on the form approved by the board, pay the appropriate fee defined in 16.2.10 NMAC and comply with all other new application requirements if any of the following changes:

- (1) ownership;
- (2) faculty;

and

- (3) curriculum.

L. An educational course shall inform the board in writing, provided that the educational course certifies that all factors defined in Subsection J of 16.2.18.8 NMAC remain unchanged, if any of the following changes:

- (1) name;
- (2) address;

and

- (3) phone

number.

[16.2.18.8 NMAC - Rp, 16.2.18.7 NMAC, 6/16/2015; A, 4/25/2023; A, 10/22/2024]

16.2.18.9 EDUCATIONAL COURSE APPROVAL BOARD REQUIREMENTS:

A. The board shall have final authority for approval of all educational courses including classes and teachers.

B. The board shall notify the applicant in writing by mail postmarked no more than 75 days after the receipt of the initial application as to whether the application is complete or if not complete, what documentation is needed to complete the application.

C. If the requested information is not received at the board office within ~~seventy five (75)~~ 75 days after notification the board shall notify the applicant in writing by mail that the application has expired.

D. Teaching must commence for an approved course within six ~~[(6)]~~ months of approval.

~~E. In the interim between regular board meetings the expanded practice Rx committee or an authorized representative of the board shall issue an interim temporary educational course approval to a qualified applicant who has filed, with the board, a complete application and complied with all requirements for educational course approval. The interim temporary educational course approval shall automatically expire on the date of the next regular board meeting and final educational course approval shall only be granted by the board. If the application is denied, the notice of denial shall state the reason the application was denied.~~

~~F.] E.~~ If the application is expired or is denied, the applicant will have to reapply as a new applicant. [16.2.18.9 NMAC - Rp, 16.2.18.8 NMAC, 6/16/2015; A, 10/22/2024]

16.2.18.12 BASIC INJECTION THERAPY EDUCATIONAL COURSE

APPROVAL: The board shall approve a basic injection therapy educational course after the educational course provider submits to the board:

A. ~~[the] a~~ completed application ~~[form provided by the board];~~

B. the payment of the application fee for expanded practice educational course approval specified in 16.2.10 NMAC;

C. documentation of having complied with all educational

course approval general requirements defined in 16.2.18.8 NMAC;

D. documentation demonstrating that it will provide the educational course general curriculum defined in 16.2.18.11 NMAC;

E. documentation demonstrating that it will provide the basic injection therapy educational course hours defined in 16.2.18.13 NMAC; and

F. documentation demonstrating that it will provide the basic injection therapy educational course curriculum defined in 16.2.18.14 NMAC; and

G. ~~[documentation demonstrating that proposed test instruments have been reviewed and approved by a credentialed PhD psychometrician, as described in the ICE credentialing standards.]~~ A passing grade of seventy ~~[(70)]~~ percent is required for certification to demonstrate learned knowledge. [16.2.18.12 NMAC - Rp, 16.2.18.11 NMAC, 6/16/2015; A, 10/22/2024]

16.2.18.13 BASIC INJECTION THERAPY EDUCATIONAL COURSE

HOURS: The education offered shall consist of a minimum total of ~~[fifty-eight (58)]~~ 58 contact hours with at least the minimum number of hours of education in the areas listed below:

A. eight ~~[(8)]~~ hours in pharmacology and biomedical differential diagnosis relative to the prescription, administration, compounding and dispensing of the authorized substances in the basic injection therapy formulary including homeopathic medicines;

B. two ~~[(2)]~~ hours in the drawing and compounding of the authorized substances intended for injection in compliance with USP 797, utilizing approved aseptic technique and proper record keeping and, storage and dispensing of substances; at least half of the required hours shall be clinical practice;

C. ~~[fourteen (14)]~~ 14 hours in orthopedic and neurological evaluation; at least half of these required hours shall be clinical practice;

D. two ~~[(2)]~~ hours in the theory and practice of vapocoolant spray and stretch techniques using the authorized vapocoolants; at least half of these required hours shall be clinical practice;

E. ~~[twenty-eight (28)]~~ 28 hours in the theory and practice of injection therapy including: ~~[eleven (11)]~~ 11 hours of trigger point therapy and injection of acupuncture points; ~~[eleven (11)]~~ 11 hours of basic mesotherapy; six ~~[(6)]~~ hours of basic neural therapy, and therapeutic injections (vitamins), using the authorized substances in the basic injection therapy formulary; at least half of these required hours shall be clinical practice;

F. one ~~[(1)]~~ hour in pharmaceutical law as provided by the New Mexico board of pharmacy;

G. one ~~[(1)]~~ in oriental medicine scope of practice relative to the authorized substances and techniques; and

H. a minimum of two ~~[(2)]~~ hours in the use of inhaled oxygen O2 and IM epinephrine for emergency use.

[16.2.18.13 NMAC - Rp, 16.2.18.12 NMAC, 6/16/2015; A, 10/22/2024]

16.2.18.15 INJECTION THERAPY EDUCATIONAL COURSE APPROVAL:

The board shall approve an injection therapy educational program requirements:

A. ~~[the] a~~ completed application ~~[form provided by the board];~~

B. payment of the application fee for expanded practice educational course approval specified in 16.2.10 NMAC;

C. documentation that it will comply with all educational course approval general requirements defined in 16.2.18.8 NMAC;

D. documentation demonstrating that it will provide the educational course general curriculum defined in 16.2.18.11 NMAC;

E. documentation demonstrating that it will provide the injection therapy educational course hours defined in 16.2.18.17 NMAC;

F. documentation demonstrating that it will provide the injection therapy educational course curriculum defined in 16.2.18.18 NMAC; and

G. documentation demonstrating that proposed test instruments have been reviewed and approved by a credentialed PhD psychometrician as described in the ICE credentialing standards. A passing grade of seventy ~~[(70)]~~ percent is required for certification to demonstrate learned knowledge. [16.2.18.15 NMAC - Rp, 16.2.18.14 NMAC, 6/16/2015; A, 10/22/2024]

16.2.18.19 INTRAVENOUS THERAPY EDUCATIONAL COURSE APPROVAL REQUIREMENTS FOR CERTIFICATION:

The board will approve an intravenous therapy educational course for certification after the educational course provider submits to the board:

A. ~~[the] a~~ completed application ~~[form provided by the board];~~

B. the payment of the application fee for expanded practice educational course approval specified in 16.2.10 NMAC;

C. documentation of having complied with all educational course approval general requirements defined in 16.2.18.8 NMAC;

D. documentation demonstrating that it will provide the educational course general curriculum defined in 16.2.18.10 NMAC;

E. documentation demonstrating that it will provide the intravenous therapy educational course hours defined in 16.2.18.20 NMAC;

F. documentation demonstrating that it will provide the intravenous therapy educational course curriculum defined in 16.2.18.21 NMAC; and

G. documentation that proposed test instruments have been reviewed and approved by a credentialed PhD psychometrician, as described in the ICE credentialing standards. A passing grade of seventy percent is required for certification to

demonstrate learned knowledge.
[16.2.18.19 NMAC - N, 6/16/2015; A, 10/22/2024]

16.2.18.20 INTRAVENOUS THERAPY COURSE

PREREQUISITES: Only a New Mexico licensed DOM, in good standing, and board certified in basic injection therapy, may apply for an intravenous therapy educational course in expanded practice.

A. Proof of current BLS/CPR certification that will be current for two [(2)] years from an American heart association, American red cross, or American safety and health institute provider.

B. Proof of completion of at least three [(3)] semester hours of college level biochemistry from an accredited institution that provides evaluation of competencies by examination. A board approved college level on line course is acceptable.

[16.2.18.20 NMAC - N, 6/16/2015; A, 10/22/2024]

16.2.18.24 BIOIDENTICAL HORMONE THERAPY EDUCATIONAL COURSE

APPROVAL: The board shall have final authority for approval of a bioidentical hormone educational program upon completion of the following requirements. The educational course shall submit to the board:

A. [~~the~~] a completed application [~~form provided by the board~~];

B. payment of the application fee for expanded practice educational course approval specified in 16.2.10 NMAC;

C. documentation that it will comply with all educational course approval general requirements defined in 16.2.18.8 NMAC;

D. documentation demonstrating that it will provide the educational course general curriculum defined in 16.2.18.11 NMAC;

E. documentation demonstrating that it will provide the bioidentical hormone therapy educational course hours defined in 16.2.18.25 NMAC;

F. documentation demonstrating that it will provide the bioidentical hormone therapy educational course curriculum defined in 16.2.18.26 NMAC; and

G. documentation demonstrating that proposed test instruments have been reviewed and approved by a credentialed PhD psychometrician, as described in the ICE credentialing standards. A passing grade of [~~seventy (70)]~~ seventy percent is required for certification to demonstrate learned knowledge.

[16.2.18.24 NMAC - Rp, 16.2.18.19 NMAC, 6/16/2015; A, 10/22/2024]

16.2.18.25 BIOIDENTICAL HORMONE THERAPY EDUCATIONAL COURSE

HOURS: The bioidentical hormone educational course shall consist of a minimum total of [~~eighty (80)]~~ 80 hours of education, with at least [~~twenty-four (24)]~~ 24 hours of practical experience defined in Subsections B, C, D, E and F of 16.2.18.25 NMAC in the areas listed below:

A. eight [~~(8)]~~ hours in the pharmacology of bioidentical hormones;

B. [~~eighteen (18)]~~ 18 hours in an overview of the endocrine system, including the anatomy and interactive physiology of the hypothalamic-pituitary-adrenal-thyroid (HPAT) and gonadal axis, the stress response and normal adrenal and thyroid function; also to include normal male and female sex hormone physiology; at least half of these hours shall be in practice or review of case studies;

C. [~~twenty (20)]~~ 20 hours in theory and practice of endocrinology including evaluation and treatment of the patient with hormonal dysfunction and imbalances including but not limited to; adrenal fatigue, auto-immune endocrine disorders, hypothyroid, hyperthyroid, men’s hormone imbalances and women’s hormonal imbalances pre, peri and post menopause and consideration and assessment for treatment with bio-identical hormone

replacement therapy, BHRT; at least half of these hours will be in practice or review of case studies;

D. [~~fourteen (14)]~~ 14 hours in blood chemistry analysis including but not limited to; CBC, CMP, LFT, lipids, ferritin, homocysteine, vitamin D, iodine, hs CRP, fibrinogen, ANA, ESR, HgBAIC, insulin antibodies;

E. two [(2)] hours in urine analysis;

F. [~~sixteen (16)]~~ 16 hours in the assessment and treatment of hormone and neurotransmitter imbalances through blood, urine and saliva hormone testing and evaluation; appropriate treatment options for the biomedical differential diagnoses including, but not limited to; adrenal fatigue, thyroid imbalances, andropause, menopausal syndrome, and other male and female hormone imbalances; at least half of these hours shall be in practice or case study review;

G. one [(1)] hour in pharmaceutical law as provided by the New Mexico board of pharmacy; and

H. one [(1)] hour in oriental medicine scope of practice relative to the prescription or administration of the authorized substances.

[16.2.18.25 NMAC - Rp, 16.2.18.20 NMAC, 6/16/2015; A, 10/22/2024]

REGULATION AND LICENSING DEPARTMENT ACUPUNCTURE AND ORIENTAL MEDICINE, BOARD OF

This is an amendment to 16.2.19 NMAC, Sections 8, 9, 11, 12, 13, 15, 17 and 19 effective 10/22/2024.

16.2.19.8 EXPANDED PRACTICE CERTIFICATION GENERAL PROVISIONS:

The four [(4)] categories of expanded practice certification authorized by 61-14A-8.1. NMSA 1978 and defined in 16.2.19 NMAC that include, basic injection therapy, injection therapy, intravenous therapy and bioidentical

hormone therapy shall all include the following provisions:

A. a doctor of oriental medicine [or] enrolled in an educational course shall be authorized to perform the techniques and shall have the prescriptive authority, for the duration of the course, to administer and compound the substances that are authorized in the expanded practice formulary for which he is studying under the supervision of the board approved teacher for that educational course; under other circumstances the student shall not be authorized to obtain, prescribe or dispense such substances;

B. upon receipt of a current copy of CPR/BLS card the board shall annually renew the expanded practice certifications of a doctor of oriental medicine in good standing if the licensee has completed all continuing education required by 16.2.9 NMAC;

C. all expanded practice and prescriptive authority certifications shall automatically terminate when licensure as a doctor of oriental medicine:

(1) is placed on inactive status as specified in 16.2.15 NMAC;

(2) expires as specified in 16.2.8 NMAC; or

(3) is suspended, revoked or terminated for any reason as defined in 16.2.12 NMAC;

D. Proof of completion of an ASHP course relative to USP 797 is required for the first time renewal of basic injection therapy.

E. an expanded practice certification that is revoked or terminated shall not be reinstated; the doctor of oriental medicine must reapply for expanded practice certification as a new applicant;

F. all expanded practice certifications that were automatically terminated due to inactive status, expiration or suspension as specified in Subsection E of 16.2.19.8 NMAC, shall be automatically reinstated when licensure as a doctor of oriental medicine is reinstated, provided that:

(1) all fees required by 16.2.10 NMAC have been paid;

(2) all continuing education requirements specified in 16.2.9 NMAC have been completed; and

(3) all other relevant, reinstatement provisions, required by board rule, have been completed;

G. each year the board may review the expanded practice formularies for necessary amendments; when new substances are added to a formulary, appropriate education in the use of the new substances shall be approved and required by the board and the board of pharmacy for doctors of oriental medicine applying for new certification or as continuing education for renewal of the applicable expanded practice certification or certifications;

H. a doctor of oriental medicine certified for a category of expanded practice under 16.2.19 NMAC that authorizes the use of testosterone, a controlled substance, and any other drug that is classified as a controlled substance, shall register with the federal DEA (drug enforcement agency) prior to obtaining, prescribing, administering, compounding or dispensing the controlled substance;

I. a doctor of oriental medicine certified for expanded practice, when prescribing, shall use prescription pads printed with [his or her] their name, address, telephone number, license number and [his or her] their specific expanded practice certifications; if a doctor of oriental medicine is using a prescription pad printed with the names of more than one [†] doctor of oriental medicine, the above information for each doctor of oriental medicine shall be on the pad and the pad shall have a separate signature line for each doctor of oriental medicine; each specific prescription shall indicate the name of the doctor of oriental medicine for that prescription and shall be signed by the prescribing doctor of oriental medicine;

J. a doctor of oriental medicine certified for expanded practice shall always, when diagnosing and treating a patient, use the skill and care ordinarily used by reasonably well-qualified doctors of oriental medicine similarly certified and practicing under similar circumstances, giving due consideration to the locality involved; failure to comply with this fundamental requirement may result in denial, suspension or revocation of licensure or certification, or other disciplinary measures, pursuant to the provisions of the act, [NMSA 1978], Section 61-14A-17 NMSA 1978, and the Uniform Licensing Act, [NMSA 1978], Section 61-1-1 NMSA 1978, et seq.;

K. when a doctor of oriental medicine is certified for injection therapy, this certification automatically supersedes his certification for basic injection therapy; and

L. the provisions for certification transition from extended prescriptive authority (Rx1) and expanded prescriptive authority (Rx2) to the expanded practice categories specified in 16.2.19 NMAC. [16.2.19.8 NMAC - Rp, 16.2.19.8 NMAC, 6/16/2015; A, 10/22/2024]

16.2.19.9 EXPANDED PRACTICE CERTIFICATION BOARD REQUIREMENTS:

A. The board shall have final authority for certification of all applicants.

B. The board shall notify the applicant in writing by mail postmarked no more than [thirty (30)] 30 days after the receipt of the initial application as to whether the application is complete or incomplete and missing specified application documentation.

C. The board shall notify the applicant in writing by mail postmarked no more than [thirty (30)] 30 days after the notice of receipt of the complete application sent out by the board, whether the application is approved or denied.

D. If the application is denied, the notice of denial shall state

the reason the application was denied.

~~[E.] In the interim between regular board meetings the board's chairman or an authorized designee of the board shall approve an expanded practice certification to a qualified applicant who has filed, with the board, a complete application and complied with all requirements for expanded practice certification. The temporary expanded practice certification will be ratified by the board on the date of the next regular board meeting. Final expanded practice certification shall only be granted by the board.]~~

[F.] ~~E.~~ the board shall maintain a list of each doctor of oriental medicine who is certified for each expanded practice category and shall notify the New Mexico board of pharmacy of all such certified licensees;

[G.] ~~E.~~ The board shall have the authority to deny, suspend, revoke or otherwise discipline an expanded practice certification, in accordance with the Uniform Licensing Act, 61-1-1 to 61-1-31 NMSA 1978, for reasons authorized in the act and clarified in 16.2.12 NMAC.

[16.2.19.9 NMAC - Rp, 16.2.19.9 NMAC, 6/16/2015; A, 10/22/2024]

16.2.19.11 BASIC INJECTION THERAPY CERTIFICATION:

The board shall issue, to a doctor of oriental medicine, certification for basic injection therapy upon completion of the course prerequisites including 30 hours of Pharmacology as specified in 16.2.18.9 and the following requirements.

A. The doctor of oriental medicine shall be a doctor of oriental medicine in good standing.

B. The doctor of oriental medicine shall submit to the board the completed application [form provided by the board.]

C. The doctor of oriental medicine shall pay the application fee for expanded practice certification specified in 16.2.10 NMAC.

D. The doctor of oriental medicine shall submit, with

the application, proof of successful completion of the basic injection therapy educational course specified in 16.2.18 NMAC.

[16.2.19.11 NMAC - Rp, 16.2.19.11 NMAC, 6/16/2015; A, 10/22/2024]

16.2.19.12 INJECTION THERAPY CERTIFICATION:

The board shall issue to a doctor of oriental medicine, certification for injection therapy, upon completion of the following requirements.

A. The doctor of oriental medicine shall be a doctor of oriental medicine in good standing.

B. The doctor of oriental medicine shall submit to the board the completed application [form provided by the board.]

C. The doctor of oriental medicine shall pay the application fee for expanded practice certification specified in 16.2.10 NMAC.

D. The doctor of oriental medicine shall submit, with the application, proof of:

(1) current certification by the board for basic injection therapy; or

(2) any course combining basic injection therapy and injection therapy, as they are specified in the board's rules, or otherwise in accordance with law, must be completed within two [(2)] years of the start of the course.

E. The doctor of oriental medicine shall submit, with the application, proof of successful completion of the injection therapy educational course approved by the board.

[16.2.19.12 NMAC - Rp, 16.2.19.12 NMAC, 6/16/2015; A, 10/22/2024]

16.2.19.13 INTRAVENOUS THERAPY CERTIFICATION:

The board shall issue to a doctor of oriental medicine, certification for intravenous therapy, upon completion of the course prerequisites including board certification in basic injection therapy, and three [(3)] hours of college level biochemistry, and the following requirements.

A. The doctor of

oriental medicine shall be a doctor of oriental medicine in good standing.

B. The doctor of oriental medicine shall submit to the board the completed application [form provided by the board].

C. The doctor of oriental medicine shall pay the application fee for expanded practice certification specified in 16.2.10 NMAC.

D. The doctor of oriental medicine shall submit, with the application, proof of successful completion of an intravenous therapy educational course approved by the board.

[16.2.19.13 NMAC - Rp, 16.2.19.13 NMAC, 6/16/2015; A, 10/22/2024]

16.2.19.15 BIOIDENTICAL HORMONE THERAPY CERTIFICATION:

The board shall issue to a doctor of oriental medicine, certification for bioidentical hormone therapy, upon completion of the following requirements:

A. the doctor of oriental medicine shall be a doctor of oriental medicine in good standing;

B. the doctor of oriental medicine shall submit to the board the completed application [form provided by the board];

C. the doctor of oriental medicine shall pay the application fee for expanded practice certification specified in 16.2.10 NMAC; and

D. the doctor of oriental medicine shall submit, with the application, proof of successful completion of the bioidentical hormone therapy educational course approved by the board.

[16.2.19.15 NMAC - Rp, 16.2.19.14 NMAC, 6/16/2015; A, 10/22/2024]

16.2.19.17 TRANSITION PROVISIONS:

A. A doctor of oriental medicine, previously certified for extended prescriptive authority including prolotherapy, (Rx1) as of the effective date of this section, shall be automatically certified for basic injection therapy and prolotherapy using previously taught and

appropriate injection routes and only substances listed in Paragraph (1) of Subsection F of 16.2.20.8 NMAC under the provisions of ~~[16.2.19.10]~~ 16.2.19.11 NMAC.

B. A doctor of oriental medicine, previously certified for the expanded prescriptive authority (Rx2) as of the effective date of this section, shall be automatically certified for:

(1) injection therapy under the provisions of ~~[16.2.19.11]~~ 16.2.19.12 NMAC basic injection therapy certification is automatically superseded by injection therapy certification;

(2) intravenous therapy under the provisions of ~~[16.2.19.12]~~ 16.2.19.13 NMAC; and

(3) bioidentical hormone therapy under the provisions of ~~[16.2.19.13]~~ 16.2.19.15 NMAC.
 [16.2.19.17 NMAC - Rp, 16.2.19.16 NMAC, 6/16/2015, A, 10/22/2024]

16.2.19.19 ULTRASOUND CREDENTIALING: A licensed doctor of oriental medicine may utilize musculoskeletal diagnostic ultrasound and ultrasound guidance of procedures with the RMSK credential from the alliance for physician certification & advancement or APCA, or the registered musculoskeletal sonographer credential from ARDMS, the American registry of diagnostic medical sonography. A licensed doctor of oriental medicine (DOM) who wishes to practice diagnostic musculoskeletal ultrasound and ultrasound guidance of procedures shall register with the board of acupuncture and oriental medicine (BAOM) to be provisionally credentialed to practice diagnostic musculoskeletal ultrasound and ultrasound guided procedures upon completion of a minimum of ~~[thirty-(30)]~~ 30 hours in BAOM approved courses. Within ~~[thirty-six-(36)]~~ 36 months of provisional credentialing, the doctor of oriental medicine shall submit to the BAOM proof of scheduling for RMSK testing with APCA or registered musculoskeletal

sonographer testing with ARDMS. If the provisional credentialing period is continued to ~~[thirty-six-(36)]~~ 36 months without ARDMS RMSK or APCA RMSK credentialing, the provisionally credentialed DOM shall submit proof of ~~[thirty-(30)]~~ 30 hours of continuing education in courses approved by the BAOM. Provisional credentialing shall lapse within ~~[forty-eight-(48)]~~ 48 months of initial provisional credentialing. Ultrasound credentialing does not require certification in expanded practice.
 [16.2.19.19 NMAC - Rp, 16.2.19.18 NMAC, 6/16/2015; A, 10/22/2024]

**REGULATION
AND LICENSING
DEPARTMENT
NUTRITION AND DIETETIC
PRACTICE BOARD**

**This is an amendment to Section
9 of 16.14.3 NMAC, Effective
10/22/2024.**

**16.14.3.9 REQUIREMENTS
FOR NUTRITIONIST LICENSE:**

A. Education requirements: Each applicant for a license as a nutritionist must have ~~[one of the following:~~
 ~~(1)] a~~
 master's degree or doctorate in human nutrition, nutrition education, foods and nutrition, or public health nutrition from a college or university accredited by a member of the council on post-secondary accreditation ~~[~~or~~
 (2) valid
 current evidence of membership in
 one of the following organizations:
 American clinical board of nutrition
 or American society for nutrition].~~

B. Additional requirements:
 (1) pass an examination related to entry level nutrition practice and nutrition care services which has been approved by the board; or
 (2) be licensed in another state which has standards for licensure not less stringent than those in New Mexico.

C. Documentation: Each applicant for license to practice as a nutritionist must submit the required fees and following documentation:
 (1) completed and signed application;
 (2) official transcript verifying degree required in Paragraph (1) of Subsection A of 16.14.3.9 NMAC, mailed directly from the college or university; or
 (3) proof of membership in the organizations specified in Paragraph (2) of Subsection A of 16.14.3.9 NMAC;
 (4) applicants who are currently, or have previously been, licensed in another state(s) must provide a copy of each license and a verification of license status directly to the board from the state(s) where licensed;
 (5) a background check shall be conducted within past 90 days for initial licenses only

D. Disqualifying convictions: Conviction by a court of competent jurisdiction of any of the following potentially disqualifying felony criminal convictions:
 (1) homicide, involuntary or voluntary manslaughter;
 (2) manufacturing of controlled substances, trafficking in controlled substances or distribution of controlled substances, driving while under the influence of drugs or intoxicating liquor;
 (3) kidnapping, false imprisonment, simple assault, simple battery, aggravated assault or aggravated battery or domestic violence offenses;
 (4) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, or other related felony sexual offenses;
 (5) crimes involving adult/elder abuse, neglect, endangerment or financial exploitation;
 (6) crimes involving child abuse or neglect, child endangerment;

(7) crimes involving robbery, larceny, extortion, burglary, tampering with evidence or receiving stolen property;

(8) crimes involving fraud (including but not limited to insurance, medicare, medicaid and prescription), forgery, embezzlement, credit card fraud or misappropriation of funds.

E. Other convictions: This includes a conviction of an offense which, if committed in this state, would be deemed a felony under either state or federal law, without regard to its designation elsewhere. The term "conviction" shall include a finding or verdict of guilt, a plea of guilty, or a plea of nolo contendere in a criminal proceeding, regardless of whether the adjudication of guilt or sentence is withheld or not entered thereon or an appeal of the conviction has been sought.

F. Mental competency: Having been declared mentally incompetent by a regularly constituted authority within or outside this state.

(1) Any such adjudication shall be grounds for suspension of the license of any such person and shall prevent the reissuance or renewal of any license so suspended for as long as the adjudication of incompetence is in effect unless the board, upon a finding that the licensee is mentally competent, orders otherwise.

(2) Any applicant who has been so adjudged to be mentally incompetent shall not receive a license unless the board, upon a finding that the applicant is mentally competent, orders otherwise

G. Scope of conduct: Nothing in this rule prevents the board from denying an application or disciplining a licensee on the basis of an individual's conduct to the extent that such conduct violated the Nutrition and Dietetics Act, regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the potentially disqualifying felony criminal convictions listed in Subsection A of this rule.

H. Prohibited disclosure: In connection with an application for licensure or licensure renewal, the board shall not use, distribute, disseminate or admit into evidence at an adjudicatory proceeding any criminal records of any of the following:

(1) an arrest not followed by a valid conviction;

(2) a conviction that has been sealed, dismissed, expunged or sealed;

(3) a juvenile adjudication; or

(4) a conviction for any crime other than the potentially disqualifying felony criminal convictions listed in Subsection A of this rule.

I. Notice and hearing:

If the board reserves approval of an applicant or licensee due to a potentially disqualifying felony criminal conviction, the applicant/ licensee will receive notice and opportunity for a hearing.

[3/30/1990...8/31/1996; 16.14.3.9 NMAC - Rn, 16 NMAC 14.3.9, 11/22/2005; A, 8/1/2011; A, 2/9/2022; A, 10/22/2024]

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WORKFORCE SOLUTIONS, DEPARTMENT OF

This is an amendment to 11.1.2 NMAC Sections 20, and 21 effective 1/1/2025.

11.1.2.20 PREVAILING WAGE AND FRINGE BENEFIT AND APPRENTICESHIP CONTRIBUTION RATES: Pursuant to 11.1.2.13 NMAC, the director of the labor relations division of the department of workforce solutions hereby publishes the [2024] 2025 prevailing wage and fringe benefit rates and apprenticeship contributions that will apply to all wage rate decisions issued from January 1, [2024] 2025 through December 31, [2024] 2025.

A. TYPE A: STREET, HIGHWAY, UTILITY AND LIGHT ENGINEERING			
Trade Classification	Base Rate	Fringe Rate	Apprenticeship
Bricklayer/block layer/stonemason	27.03	10.99	
Bricklayer/block layer/stonemason: Curry, DeBaca, Quay and Roosevelt counties	23.10	8.98	
Bricklayer/block layer/stonemason: Dona Ana, Otero, Eddy, and Lea counties	29.56	14.10	
Carpenter/lather	[29.11] <u>30.89</u>	[12.79] <u>13.26</u>	
Carpenter: Los Alamos county	[33.18] <u>37.39</u>	[13.58] <u>14.18</u>	
Cement mason	[19.34] <u>20.52</u>	[7.41] <u>7.61</u>	
Drywall Finisher/Taper	[26.40] <u>29.60</u>	[8.86] <u>9.63</u>	
Glazier/Fabricator	[21.75] <u>22.25</u>	[7.10] <u>7.40</u>	
Ironworker			
Ironworker journeyman	[28.49] <u>28.96</u>	[18.71] <u>19.51</u>	
Probationary ironworker	[22.79] <u>23.17</u>	[18.71] <u>19.51</u>	
Painter – Commercial	21.00	5.75	
Paper Hanger	21.00	5.75	
Plumber/pipefitter	[40.74] <u>43.07</u>	[15.90] <u>17.25</u>	
Electricians – outside classifications: Zone 1			
Ground man	[26.32] <u>27.18</u>	[12.79] <u>13.32</u>	
Equipment operator	[37.76] <u>38.99</u>	[17.13] <u>17.67</u>	
Lineman	[47.70] <u>49.25</u>	[19.92] <u>20.82</u>	
Journeyman technician	[44.42] <u>45.86</u>	[19.10] <u>19.97</u>	
Cable splicer	[48.87] <u>50.46</u>	[20.22] <u>21.11</u>	
Electricians – outside classifications: Zone 2			
Ground man	[26.32] <u>27.18</u>	[12.79] <u>13.32</u>	
Equipment operator	[37.76] <u>38.99</u>	[17.13] <u>17.67</u>	
Lineman	[47.70] <u>49.25</u>	[19.92] <u>20.82</u>	
Journeyman technician	[44.42] <u>45.86</u>	[19.10] <u>19.97</u>	
Cable splicer	[48.87] <u>50.46</u>	[20.22] <u>21.11</u>	
Electricians – outside classifications: Los Alamos County			
Ground man	[27.07] <u>27.95</u>	[12.81] <u>13.34</u>	
Equipment Operator	[38.85] <u>40.11</u>	[17.17] <u>17.70</u>	

Lineman/Technician	[48.95] <u>50.54</u>	[20.24] <u>21.14</u>	
Journeyman technician	[45.70] <u>47.19</u>	[19.42] <u>20.29</u>	
Cable Splicer	[53.75] <u>55.50</u>	[21.44] <u>22.38</u>	
Laborers			
Group I – Unskilled	[16.60] <u>17.39</u>	[7.30] <u>7.51</u>	
Group II – Semi-Skilled	[17.60] <u>17.39</u>	[7.30] <u>7.51</u>	
Group III – Skilled	[18.10] <u>18.89</u>	[7.30] <u>7.51</u>	
Group IV - Specialty	[18.60] <u>19.39</u>	[7.30] <u>7.51</u>	
Operators			
Group I	[22.42] <u>23.00</u>	[6.79] <u>6.95</u>	
Group II	[23.50] <u>24.00</u>	[6.79] <u>6.95</u>	
Group III	[23.61] <u>25.50</u>	[6.79] <u>6.95</u>	
Group IV	[24.09] <u>27.03</u>	[6.79] <u>6.95</u>	
Group V	[24.21] <u>27.16</u>	[6.79] <u>6.95</u>	
Group VI	[24.43] <u>27.41</u>	[6.79] <u>6.95</u>	
Group VII	[24.62] <u>27.62</u>	[6.79] <u>6.95</u>	
Group VIII	[25.33] <u>28.56</u>	[6.79] <u>6.95</u>	
Group IX	[33.56] <u>37.81</u>	[6.79] <u>6.95</u>	
Group X	[37.43] <u>42.19</u>	[6.79] <u>6.95</u>	
Soft Floor Layer	21.00	9.20	
Truck drivers			
Group I – IX	[19.75] <u>20.55</u>	[9.15] <u>9.40</u>	
B. TYPE B: GENERAL BUILDING			
Trade Classification	Base Rate	Fringe Rate	Apprenticeship
Asbestos workers/heat & frost insulators	[35.86] <u>36.36</u>	12.46	.60
Asbestos workers/heat & frost insulators: Los Alamos County	[38.29] <u>38.79</u>	12.46	.60
Boilermaker/blacksmith	35.88	32.28	.60
Boilermaker/blacksmith: San Juan County	36.83	31.88	.60
Bricklayer/block layer/stonemason	27.03	10.99	.60
Bricklayer/block layer/stonemason: Curry, DeBaca, Quay, and Roosevelt counties	23.10	8.98	.60
Bricklayer/block layer/stonemason: Dona Ana, Otero, Eddy, and Lea	26.42	8.98	.60
Carpenter/lather	[29.11] <u>30.89</u>	[12.79] <u>13.26</u>	.60
Carpenter: Los Alamos county	[33.18] <u>37.39</u>	[13.58] <u>14.18</u>	.60
Millwright/pile driver	[39.00] <u>50.00</u>	[29.40] <u>21.15</u>	.60
Cement mason	[24.31] <u>25.26</u>	[11.16] <u>11.48</u>	.60
Electricians – outside classifications: Zone 1			
Ground man	[26.32] <u>27.18</u>	[12.79] <u>13.32</u>	.60
Equipment operator	[37.76] <u>38.99</u>	[17.13] <u>17.67</u>	.60

Lineman/technician	[47.70] <u>49.25</u>	[19.92] <u>20.82</u>	.60
Cable splicer	[48.87] <u>50.46</u>	[20.22] <u>21.11</u>	.60
Electricians – outside classifications: Zone 2			
Ground man	[26.32] <u>27.18</u>	[12.79] <u>13.32</u>	.60
Equipment operator	[37.76] <u>38.99</u>	[17.13] <u>17.67</u>	.60
Lineman/technician	[47.70] <u>49.25</u>	[19.92] <u>20.82</u>	.60
Cable splicer	[48.87] <u>50.46</u>	[20.22] <u>21.11</u>	.60
Electricians – outside classifications: Los Alamos County			
Ground man	[27.07] <u>27.95</u>	[12.81] <u>13.34</u>	.60
Equipment operator	[38.85] <u>40.11</u>	[17.17] <u>17.70</u>	.60
Lineman/technician	[48.95] <u>50.54</u>	[20.24] <u>21.14</u>	.60
Cable splicer	[53.75] <u>55.50</u>	[21.44] <u>22.38</u>	.60
Electricians – inside classifications: Zone 1			
Wireman/low voltage technician	[38.30] <u>40.30</u>	[12.60] <u>13.01</u>	.60
Cable splicer	[42.13] <u>44.33</u>	[12.71] <u>13.13</u>	.60
Electricians – inside classifications: Zone 2			
Wireman/low voltage technician	[41.75] <u>43.93</u>	[12.70] <u>13.11</u>	.60
Cable splicer	[45.58] <u>47.96</u>	[12.82] <u>13.25</u>	.60
Electricians – inside classifications: Zone 3			
Wireman/low voltage technician	[44.05] <u>46.35</u>	[12.77] <u>13.19</u>	.60
Cable splicer	[47.88] <u>50.38</u>	[12.89] <u>13.32</u>	.60
Electricians – inside classifications: Zone 4			
Wireman/low voltage technician	[48.26] <u>50.78</u>	[12.90] <u>13.32</u>	.60
Cable splicer	[52.09] <u>54.81</u>	[13.01] <u>13.44</u>	.60
Electricians – inside classifications: Dona Ana [county], Hidalgo [county], Luna [county] and Otero [county] counties			
Wireman/low voltage technician	[32.72] <u>32.82</u>	[9.65] <u>9.85</u>	.60
Cable splicer	[32.72] <u>32.82</u>	[9.65] <u>9.85</u>	.60
Electricians – inside classifications: Los Alamos County			
Wireman/low voltage technician	[44.05] <u>46.35</u>	[14.97] <u>15.50</u>	.60
Cable splicer	[47.88] <u>50.38</u>	[15.28] <u>15.83</u>	.60
Elevator constructor	[49.77] <u>51.49</u>	[39.19] <u>40.04</u>	.60
Elevator constructor helper	[34.84] <u>36.04</u>	[39.19] <u>40.04</u>	.60
Glazier/Fabricator	[21.75] <u>22.25</u>	[7.10] <u>7.40</u>	
Glazier: Los Alamos county	[21.75] <u>22.25</u>	[7.10] <u>7.40</u>	.60
Ironworker			
Ironworker journeyman	[28.49] <u>28.96</u>	[18.71] <u>19.11</u>	.60
Probationary ironworker	[22.79] <u>23.17</u>	[18.71] <u>19.11</u>	.60
Painter	21.00	5.75	.60
Painter: Los Alamos county	[31.18] <u>33.70</u>	[11.50] <u>12.00</u>	.60
Paper Hanger	21.00	5.75	.60

Paper Hanger: Los Alamos county	[32.06] <u>34.64</u>	[+1.50] <u>12.00</u>	.60
Drywall Finisher/Taper [Light commercial & residential]	<u>29.60</u>	<u>9.63</u>	<u>.60</u>
[Ames tool operator]	[27.40]	[8.86]	[-.60]
[Hand finisher/machine texture]	[26.40]	[8.86]	[-.60]
Drywall Finisher/Taper: Los Alamos County	[31.18] <u>33.72</u>	[+1.50] <u>12.00</u>	.60
Plasterer	24.76	9.99	.60
Plumber/pipefitter	[36.91] <u>38.92</u>	[+4.75] <u>16.10</u>	.60
Roofer			
Roofer journeyman	[26.94] <u>29.71</u>	9.36	.60
Roofer helper	[16.16] <u>17.83</u>	9.36	.60
Sheet metal worker			
Zone 1	[37.50] <u>39.13</u>	[+9.08] <u>19.33</u>	.60
Zone 2 – Industrial	[38.50] <u>40.13</u>	[+9.08] <u>19.33</u>	.60
Zone 3 – Los Alamos county	[39.50] <u>41.13</u>	[+9.08] <u>19.33</u>	.60
Soft floor layer	21.00	9.20	.60
Soft floor layer: Los Alamos County	31.20	11.62	.60
Sprinkler fitter	[35.75] <u>37.39</u>	[24.56] <u>25.14</u>	.60
Tile setter	24.46	8.81	.60
Tile setter helper/finisher	16.53	8.81	.60
Laborers			
Group I – Unskilled	20.44	7.96	.60
Group II – Semi-Skilled	20.44	7.96	.60
Group III – Skilled	21.44	7.96	.60
Group IV – Specialty	23.69	7.96	.60
Operators			
Group I	24.49	8.22	.60
Group II	26.75	8.22	.60
Group III	27.24	8.22	.60
Group IV	27.70	8.22	.60
Group V	[27.90] <u>27.96</u>	8.22	.60
Group VI	28.12	8.22	.60
Group VII	28.23	8.22	.60
Group VIII	31.43	8.22	.60
Group IX	33.94	8.22	.60
Group X	37.51	8.22	.60
Truck drivers			
Group I – VII	16.65	8.27	.60
Group VIII	16.71	8.27	.60
Group IX	18.65	8.27	.60
C. TYPE C: RESIDENTIAL			
Trade classification	Base rate	Fringe rate	Apprenticeship
Asbestos workers/heat & frost insulators	[35.86] <u>36.36</u>	12.46	.60

Asbestos workers/heat & frost insulators: Los Alamos County	[38.29] <u>38.79</u>	12.46	.60
Boilermaker/blacksmith	35.88	32.28	.60
Boilermaker/blacksmith: San Juan County	36.83	31.88	.60
Bricklayer/block layer/stonemason	27.03	10.99	.60
Bricklayer/block layer/stonemason: Curry, DeBaca, Quay, and Roosevelt counties	23.10	8.98	.60
Bricklayer/block layer/stonemason: Dona Ana, Otero, Eddy and Lea counties	26.42	8.98	.60
Carpenter/lather	[29.11] <u>30.89</u>	[12.79] <u>13.26</u>	.60
Carpenter: Los Alamos county	[33.18] <u>37.39</u>	[13.58] <u>14.18</u>	.60
Cement mason	[21.27] <u>25.26</u>	[11.09] <u>11.48</u>	.60
Electricians – outside classifications: Zone 1			
Ground man	[26.32] <u>27.18</u>	[12.79] <u>13.32</u>	.60
Equipment operator	[37.76] <u>38.99</u>	[17.13] <u>17.67</u>	.60
Lineman/technician	[47.70] <u>49.25</u>	[19.92] <u>20.82</u>	.60
Cable splicer	[48.87] <u>50.46</u>	[20.22] <u>21.11</u>	.60
Electricians – outside classifications: Zone 2			
Ground man	[26.32] <u>27.18</u>	[12.79] <u>13.32</u>	.60
Equipment operator	[37.76] <u>38.99</u>	[17.13] <u>17.67</u>	.60
Lineman/technician	[47.70] <u>49.25</u>	[19.92] <u>20.82</u>	.60
Cable splicer	[48.87] <u>50.46</u>	[20.22] <u>21.11</u>	.60
Electricians – outside classifications: Los Alamos county			
Ground man	[27.07] <u>27.95</u>	[12.81] <u>13.34</u>	.60
Equipment operator	[38.85] <u>40.11</u>	[17.17] <u>17.70</u>	.60
Lineman/technician	[48.95] <u>50.54</u>	[20.24] <u>21.14</u>	.60
Cable splicer	[53.75] <u>55.50</u>	[21.44] <u>22.38</u>	.60
Electricians – inside classifications: Zone 1			
Wireman/low voltage technician	[38.30] <u>40.30</u>	[12.60] <u>13.01</u>	.60
Cable splicer	[42.13] <u>44.33</u>	[12.71] <u>13.13</u>	.60
Electricians – inside classifications: Zone 2			
Wireman/low voltage technician	[41.75] <u>43.93</u>	[12.70] <u>13.11</u>	.60
Cable splicer	[45.58] <u>47.96</u>	[12.82] <u>13.25</u>	.60
Electricians – inside classifications: Zone 3			
Wireman/low voltage technician	[44.05] <u>46.35</u>	[12.77] <u>13.19</u>	.60
Cable splicer	[47.88] <u>50.38</u>	[12.89] <u>13.32</u>	.60
Electricians – inside classifications: Zone 4			
Wireman/low voltage technician	[48.26] <u>50.78</u>	[12.90] <u>13.32</u>	.60
Cable splicer	[52.09] <u>54.81</u>	[13.01] <u>13.44</u>	.60
Electricians – inside classifications: Dona Ana [county], Hidalgo [county], Luna [county] and Otero [county] counties			
Wireman/low voltage technician	[32.72] <u>32.82</u>	[9.65] <u>9.85</u>	.60

Cable splicer	[32.72] <u>32.82</u>	[9.65] <u>9.85</u>	.60
Electricians – inside classifications: Los Alamos County			
Wireman/low voltage technician	[44.05] <u>46.35</u>	[14.97] <u>15.50</u>	.60
Cable splicer	[47.88] <u>50.38</u>	[15.28] <u>15.83</u>	.60
Elevator constructor	[49.77] <u>51.49</u>	[39.19] <u>40.04</u>	.60
Elevator constructor helper	[34.84] <u>36.04</u>	[39.19] <u>40.04</u>	.60
Glazier/Fabricator	[21.75] <u>22.25</u>	[7.10] <u>7.40</u>	
Ironworker			
Ironworker journeyman	[28.49] <u>28.96</u>	[18.71] <u>19.11</u>	.60
Probationary ironworker	[22.79] <u>23.17</u>	[18.71] <u>19.11</u>	.60
Painter – Residential	19.00	5.75	.60
Drywall Finisher/Taper – Light commercial & residential	<u>25.99</u>	<u>9.63</u>	<u>.60</u>
[Ames tool operator]	24.03	8.86	.60
[Hand finisher/machine texture]	23.03	8.86	.60
Paper hanger	19.00	5.75	.60
Plasterer	21.49	8.92	.60
Plumber/pipefitter	[28.04] <u>29.47</u>	[7.60] <u>7.60</u>	.60
Roofer			
Roofer Journeyman	[26.94] <u>29.71</u>	9.36	.60
Roofer Helper	[16.16] <u>17.83</u>	9.36	.60
Sheet metal worker			
Zone 1	[37.50] <u>39.13</u>	[19.08] <u>19.33</u>	.60
Zone 2 – Industrial	[38.50] <u>40.13</u>	[19.08] <u>19.33</u>	.60
Zone 3 – Los Alamos county	[39.50] <u>41.13</u>	[19.08] <u>19.33</u>	.60
Soft floor layer	21.00	9.20	.60
Sprinkler fitter	[35.75] <u>37.39</u>	[24.56] <u>25.14</u>	.60
Tile setter	24.46	8.81	.60
Tile setter helper/finisher	16.53	8.81	.60
Laborers			
Group I – Unskilled	13.44	8.16	.60
Group II – Semi-skilled	13.44	8.16	.60
Group III – Skilled	14.44	8.16	.60
Group IV – Specialty	15.44	8.16	.60
Operators			
Group I	19.50	8.82	.60
Group V	21.33	8.82	.60
Group VII	25.75	8.82	.60
Group VIII	27.95	8.82	.60
Truck drivers			
Group I – IX	20.75	6.27	.60
D. TYPE H: HEAVY ENGINEERING			

Trade Classification	Base Rate	Fringe Rate	Apprenticeship
Asbestos workers/heat & frost insulators	[35.86] <u>36.36</u>	12.46	.60
Asbestos workers/heat & frost insulators: Los Alamos County	[38.29] <u>38.79</u>	12.46	.60
Boilermaker/blacksmith	35.88	32.28	.60
Boilermaker/blacksmith: San Juan County	36.83	31.88	.60
Bricklayer/block layer/stonemason	27.03	10.99	.60
Bricklayer/block layer/stonemason: Curry, DeBaca, Quay and Roosevelt counties	23.10	8.98	.60
Bricklayer/block layer/stonemason: Dona Ana, Otero, Eddy, and Lea counties	26.42	8.98	.60
Carpenter/lather	[29.11] <u>30.89</u>	[12.79] <u>13.26</u>	.60
Carpenter: Los Alamos county	[33.18] <u>37.39</u>	[13.58] <u>14.18</u>	.60
Millwright/pile driver	[39.00] <u>50.00</u>	[29.40] <u>21.15</u>	.60
Cement mason	[24.31] <u>25.08</u>	[11.16] <u>7.41</u>	.60
Electricians - outside classifications: Zone 1			
Ground man	[26.32] <u>27.18</u>	[12.79] <u>13.32</u>	.60
Equipment operator	[37.76] <u>38.99</u>	[17.13] <u>17.67</u>	.60
Lineman/technician	[47.70] <u>49.25</u>	[19.92] <u>20.82</u>	.60
Cable splicer	[48.87] <u>50.46</u>	[20.22] <u>21.11</u>	.60
Electricians - outside classifications: Zone 2			
Ground man	[26.32] <u>27.18</u>	[12.79] <u>13.32</u>	.60
Equipment operator	[37.76] <u>38.99</u>	[17.13] <u>17.67</u>	.60
Lineman/technician	[47.70] <u>49.25</u>	[19.92] <u>20.82</u>	.60
Cable splicer	[48.87] <u>50.46</u>	[20.22] <u>21.11</u>	.60
Electricians – outside classifications: Los Alamos County			
Ground man	[27.07] <u>27.95</u>	[12.81] <u>13.34</u>	.60
Equipment operator	[38.85] <u>40.11</u>	[17.17] <u>17.70</u>	.60
Lineman/technician	[48.95] <u>50.54</u>	[20.24] <u>21.14</u>	.60
Cable splicer	[53.75] <u>55.50</u>	[21.44] <u>22.38</u>	.60
Electricians – inside classifications: Zone 1			
Wireman/low voltage technician	[38.30] <u>40.30</u>	[12.60] <u>13.01</u>	.60
Cable splicer	[42.13] <u>44.33</u>	[12.71] <u>13.13</u>	.60
Electricians - inside classifications: Zone 2			
Wireman/low voltage technician	[41.75] <u>43.93</u>	[12.70] <u>13.11</u>	.60
Cable splicer	[45.58] <u>47.96</u>	[12.82] <u>13.25</u>	.60
Electricians - inside classifications: Zone 3			
Wireman/low voltage technician	[44.05] <u>46.35</u>	[12.77] <u>13.19</u>	.60
Cable splicer	[47.88] <u>50.38</u>	[12.89] <u>13.32</u>	.60
Electricians - inside classifications: Zone 4			
Wireman/low voltage technician	[48.26] <u>50.78</u>	[12.90] <u>13.32</u>	.60
Cable splicer	[52.09] <u>54.81</u>	[13.01] <u>13.44</u>	.60

Electricians – inside classifications: Dona Ana [county], Hidalgo [county], Luna [county] and Otero [county] counties			
Wireman/low voltage technician	[32.72] <u>32.82</u>	[9.65] <u>9.85</u>	.60
Cable splicer	[32.72] <u>32.82</u>	[9.65] <u>9.85</u>	.60
Electricians – inside classifications: Los Alamos County			
Wireman/low voltage technician	[44.05] <u>46.35</u>	[14.97] <u>15.50</u>	.60
Cable splicer	[47.88] <u>50.38</u>	[15.28] <u>15.83</u>	.60
Glazier/Fabricator	[21.75] <u>22.25</u>	[7.10] <u>7.40</u>	
Ironworker			
Ironworker journeyman	[28.49] <u>28.96</u>	[18.71] <u>19.11</u>	.60
Probationary ironworker	[22.79] <u>23.17</u>	[18.71] <u>19.11</u>	.60
Painter – Industrial	24.00	6.70	.60
Paperhanger	24.00	6.70	.60
Drywall Finisher/Taper – Industrial	<u>30.51</u>	<u>9.63</u>	<u>.60</u>
[Ames tool operator]	[28.25]	[8.86]	[.60]
[Hand finisher/machine texture]	[27.25]	[8.86]	[.60]
Plumber/pipefitter	[40.74] <u>43.07</u>	[15.90] <u>17.25</u>	.60
Roofer			
Roofer journeyman	[26.94] <u>29.71</u>	9.36	.60
Roofer helper	[16.16] <u>17.83</u>	9.36	.60
Sheet metal worker	[37.50] <u>39.13</u>	[19.08] <u>19.33</u>	.60
Operators			
Group I	[24.51] <u>26.23</u>	[6.79] <u>6.95</u>	.60
Group II	[24.73] <u>26.46</u>	[6.79] <u>6.95</u>	.60
Group III	[24.96] <u>26.71</u>	[6.79] <u>6.95</u>	.60
Group IV	[25.49] <u>27.27</u>	[6.79] <u>6.95</u>	.60
Group V	[25.60] <u>27.39</u>	[6.79] <u>6.95</u>	.60
Group VI	[25.84] <u>27.65</u>	[6.79] <u>6.95</u>	.60
Group VII	[25.86] <u>27.67</u>	[6.79] <u>6.95</u>	.60
Group VIII	[28.56] <u>30.56</u>	[6.79] <u>6.95</u>	.60
Group IX	[34.51] <u>36.83</u>	[6.79] <u>6.95</u>	.60
Group X	[38.37] <u>41.06</u>	[6.79] <u>6.95</u>	.60
Laborers			
Group I – Unskilled	[18.95] <u>19.74</u>	[7.30] <u>7.51</u>	.60
Group II – Semi-Skilled	[18.89] <u>21.19</u>	[7.30] <u>7.51</u>	.60
Group III – Skilled	[21.21] <u>22.00</u>	[7.30] <u>7.51</u>	.60
Group IV- Specialty	[21.61] <u>22.40</u>	[7.30] <u>7.51</u>	.60
Laborers – Underground			
Group I	[21.06] <u>21.85</u>	7.12	.60
Group II	[20.86] <u>22.65</u>	7.12	.60
Group III	[21.58] <u>22.37</u>	7.12	.60

Soft Floor Layer	21.00	9.20	.60
Truck drivers			
Group I	[19.75] <u>20.55</u>	[9.15] <u>9.40</u>	.60
Group II	[19.75] <u>20.55</u>	[9.15] <u>9.40</u>	.60
Group III	[19.75] <u>20.55</u>	[9.15] <u>9.40</u>	.60
Group IV	[19.75] <u>20.55</u>	[9.15] <u>9.40</u>	.60
Group V	[19.75] <u>20.55</u>	[9.15] <u>9.40</u>	.60
Group VI	[19.75] <u>20.55</u>	[9.15] <u>9.40</u>	.60
Group VII	[19.75] <u>20.55</u>	[9.15] <u>9.40</u>	.60
Group VIII	[19.75] <u>20.55</u>	[9.15] <u>9.40</u>	.60
Group IX	[25.75] <u>26.55</u>	[9.15] <u>9.40</u>	.60

[11.1.2.20 NMAC - N, 02-29-2016; Rp, 1/1/2017; A, 1/1/2018, A, 1/1/2019; A, 1/1/2020; A, 1/1/2021; A, 1/1/2022; A, 1/1/2023; A, 1/1/2024; A, 1/1/2025]

11.1.2.21 Subsistence, zone, and incentive pay rates. All contractors are required to pay subsistence, zone, and incentive pay according to the particular trade.

A. Asbestos workers or heat and frost insulators

(1) Zone 1 shall consist of the area lying within the city limits of a circle whose radius is 66 miles from the city hall in Albuquerque or the city hall in El Paso - \$0.00 per day.

(2) Zone 2 shall consist of Los Alamos county - \$40.00 per day if not furnished a company owned vehicle.

(3) Zone 3 shall consist of the area lying beyond a circle whose radius is over 66 miles from the city hall in Albuquerque or the city hall in El Paso - \$85.00 per day.

B. Boilermakers/blacksmiths

(1) Per diem is calculated from city hall of the dispatch city or the employee's home address, whichever is closer to the job location.

(2) Per diem is \$55.00 per day for travel between 70 and 120 miles and \$85.00 per day for travel over 120 miles.

C. Bricklayers

(1) For Albuquerque area contractors, the starting point shall be at the intersection of I-40 and I-25 and shall continue to the job site. All other

areas, the starting point shall be the employer's main office address.

(2) Between 50 and 75 miles from the starting point, \$35.00 per day.

(3) 76 or more miles from the starting point, \$55.00 per day.

(4) All covered refractory work over 75 miles from the intersection of I-40 and I-25, \$80.00 per day.

D. Cement Masons

(1) For employees who travel to Santa Fe from Albuquerque or vice versa, \$20.00 per day.

(2) In all other work performed more than 50 miles from the employer's main office, \$50.00 per day.

(3) Mutually agreed-upon lodging or transportation paid for by the employer will substitute for subsistence pay.

E. Drywall Finishers and Tapers:

~~(1) \$40.00 per day (\$5.00 per hour for eight hours work) for over 60 miles over the most typically traveled route, or other mutually agreed upon suitable lodging or transportation.~~

~~(2) If an employee has worked the full week on four 10-hour days, the employee shall be paid the full week of per diem of \$200.00.~~

~~(3) Special provision for Santa Fe and Albuquerque: Employees who travel~~

~~between Santa Fe and Albuquerque will be paid \$15.00 per day or other mutually agreed upon lodging or transportation.]~~

~~(1) All zones are measured from the Albuquerque City Hall.~~

~~(2) Up to 70 miles is a free zone.~~

~~(3) Between 71 and 100 miles shall be paid \$30.00 expense allowance per day worked.~~

~~(4) Over 101 miles shall be paid \$80.00 expense allowance per day worked.~~

~~(5) Employees who travel from Santa Fe to Albuquerque will be paid \$30.00 per day or other mutually agreed upon lodging or transportation.~~

~~(6) An area within a 50-mile radius of the address where an employee permanently resides at the time of hire, outside of Santa Fe or Albuquerque, shall be a free zone.~~

~~(7) When the employer pays for the hotel for out-of-town work, the employee shall receive \$30.00 per day for expenses. Each room shall not house more than two people per room.~~

F. Electricians (inside classifications)

(1) For Albuquerque only:

(a) Zone 1 is classified as being within 40 miles from the main post office.

(b) Zone 2 shall extend up to 10 miles

beyond zone 1. Work performed within zone 2 shall be compensated nine percent above the journeyman rate for zone 1.

(c)

Zone 3 shall extend up to 20 miles beyond zone 1. Work performed within zone 3 shall be compensated fifteen percent above the journeyman rate for zone 1.

(d)

Zone 4 shall extend 20 miles or more beyond zone 1. Work performed within zone 4 shall be compensated twenty six percent above the journeyman rate for zone 1.

(2) For

Los Alamos County only: work performed within the county shall be compensated fifteen percent above the zone 1 journeyman rate.

(3) For all

other counties:

(a)

Zone 1 is:

(i)

within six miles from the main post office for Raton, Tucumcari, and Farmington.

(ii)

within eight miles from the main post office for Las Vegas.

(iii)

within ten miles from the main post office for Santa Fe and Gallup.

(iv)

within twelve miles from the main post office for Belen, Carrizozo, Clovis, Los Lunas, Portales, Roswell, Ruidoso, Artesia, Carlsbad, Hobbs, and Lovington.

(v)

within fourteen miles from the main post office for Espanola.

(b)

Zone 2 shall extend up to 20 miles beyond zone 1. Work performed within zone 2 shall be compensated nine percent above the journeyman rate for zone 1.

(c)

Zone 3 shall extend up to 30 miles from zone 1. Work performed within zone 3 shall be compensated fifteen percent above the journeyman rate for zone 1.

(d)

Zone 4 shall extend beyond 30 miles

from zone 1. Work performed within zone 4 shall be compensated twenty six percent above the journeyman rate for zone 1.

(4)

Commuting time to and from a job site at the beginning and end of each workday is not compensable. However, if workers are required to report to the shop at the start of the day or return to the shop at the end of the day, then that time spent traveling is compensable. Similarly, time spent traveling from job to job is compensable. In both cases, workers shall be paid for the time spent traveling and shall be furnished transportation by the employer. Under these conditions the Zone 1 rate and any applicable overtime will be paid.

G. Electricians (outside classification – Zone 2): \$50.00 per diem to be paid for work 30 miles outside of Santa Fe and 60 miles outside of Albuquerque. No per diem in Los Alamos County.

H. Glaziers

~~(1) When out-of-town travel is required, the employer shall provide suitable lodging with no more than two people per room and \$20.00 per night for food.~~

~~(2) Employees required to use a personal vehicle for travel to a jobsite beyond a 30 mile radius of the main post office in town where the employer's shop is located shall be compensated at the current Internal Revenue Service (IRS) rate for actual mileage incurred beyond the 30 mile radius, plus their regular rate of pay for travel time.]~~

~~(1) When out-of-town travel is required, the employer shall provide suitable lodging with no more than two people per room and \$30.00 per day for expenses, or;~~

~~(2) Pay \$100 per day for expenses, plus their regular rate of pay.~~

~~(3) Employees required to use a personal vehicle for travel to a jobsite beyond a 50-mile radius from their residence or the employer's shop, whichever is closest to the job, shall be compensated at the~~

current IRS rate for actual mileage incurred beyond the 50-mile radius, plus their regular rate of pay for travel time.

I. Ironworkers:

(1) Travel

more than 50 miles from the interchange of Interstate 25 and Interstate 40 or from the employee's home should be paid at \$9.00 per hour.

(2) If travel is

within Santa Fe County, travel should be paid at \$3.00 per hour.

J. Laborers:

(1) Type A:

(a)

Work travel between 50 and 85 miles from the employer's primary address should be compensated at \$3.50 per hour

(b)

Work travel 86 miles or greater from the employer's primary address should be compensated at \$5.00 per hour.

(2) Types B

and C:

(a)

Work travel over 70 miles from the union halls of Albuquerque, Espanola, Farmington or Las Cruces shall be paid at \$7.00 per hour in travel pay, not to exceed 10 hours per day.

(b)

If an overnight stay is necessary, the employer shall pay \$40.00 per day for meals, in addition to travel pay.

(3) Type H –

no zone subsistence pay

(4) If an

employer provides the employee transportation and mutually agreeable, suitable lodging in areas where overnight stays are necessary, subsistence rates do not apply.

K. Millwrights

(1) All

zone pay shall be calculated from the address of the city hall of the respective dispatch point using the "shortest route" filter on Google Maps.

(2) Zone 1:

Work traveled up to 45 miles from the address of the city hall of the respective dispatch points is a free zone.

(3) Zone 2:
Work traveled between 45 miles and 100 miles shall be compensated at \$4.00 per hour above base wage.

(4) Zone 3:
Work traveled 101 miles or more shall be compensated at \$6.00 per hour above base wage.

(5) If employer fails to provide suitable lodging, employer shall pay \$110.00 per diem.

(6) If an employee's principal place of residence is within 45 road miles from the project, no subsistence or travel time shall be paid.

L. Operating Engineers

(1) Type A operators should be compensated for zone and subsistence as follows:

(a) Work travel between 50 and 85 miles from the interchange of Interstate 25 and Interstate 40 in Albuquerque, or from the Farmington City Hall in Farmington, should be compensated at \$2.50 per hour.

(b) Work travel 86 miles or more from the interchange of Interstate 25 and Interstate 40 in Albuquerque or from the Farmington City Hall in Farmington, should be compensated at \$4.00 per hour.

(2) Type B and C operators:

(a) Base points for operators are 30 miles and beyond from the following base points or the employee's home:

(i) Bernalillo county courthouse in Albuquerque;

(ii) state capital building in Santa Fe;

(iii) city hall in Farmington.

(b) Zone and subsistence for Albuquerque, Santa Fe and Farmington are as follows:

(i) work travel between 30 and 50 miles from the base point compensated at \$20.00 per day;

(ii) work travel between 51 and 100 miles from the base point compensated at \$50.00 per day;

(iii) work travel over 100 miles from the base point that involves an overnight stay compensated at \$100.00 per day.

(c) Zone and subsistence for Los Alamos County, \$100.00 per day. This takes precedence of the 50-mile radius for Santa Fe zone and subsistence.

(d) If an employer provides the employee transportation and mutually agreeable, suitable lodging in areas where overnight stays are necessary, subsistence rates do not apply.

(3) Type H operators are not eligible for zone and subsistence pay.

M. Painters
(1) When out-of-town travel is required, the employer shall provide suitable lodging with no more than two people per room and \$30.00 per day for expenses.

(2) When out-of-town travel is required [and employer] and employer does not provide lodging, employer shall pay \$100 per day for expenses, plus their regular rate of pay.

(3) Employees required to use a personal vehicle for travel to a jobsite beyond a 60-mile radius from their residence or the employer's shop, whichever is closest to the job, shall be compensated at the current IRS rate for actual mileage incurred beyond the 60-mile radius, plus their regular rate of pay for travel time.

[~~(4)~~ Employer shall furnish transportation or gasoline for all work performed beyond the 30-mile radius that encompasses the free cities of Albuquerque, Santa Fe, and Belen.]

N. Paper hangers
[~~(1)~~ Zone 1: Base pay for an area within a 30-mile radius from the main post office in the city or town where the employee permanently resides. Albuquerque, Santa Fe, and Belen shall be considered Zone 1.

~~(2) Zone 2: Work travel between 30 and 75 miles from the main post office in the town where an employee permanently resides shall be compensated at \$1.00 per hour above base pay.~~

~~(3) Zone 3: Work travel 75 miles or more from the main post office in the town where an employee permanently resides shall be compensated at \$2.50 per hour above base pay.~~

~~(4) When the employee is required to stay overnight, the employer should provide and pay for suitable lodging.~~

~~(5) Employer will furnish transportation or gasoline for all work performed beyond the 30-mile radius that encompasses the free cities of Albuquerque, Santa Fe, or Belen.]~~

(1) When out-of-town travel is required, the employer shall provide suitable lodging with no more than two people per room and \$30.00 per day for expenses.

(2) When out-of-town travel is required and employer does not provide lodging, employer shall pay \$100 per day for expenses, plus their regular rate of pay.

(3) Employees required to use a personal vehicle for travel to a jobsite beyond a 60-mile radius from their residence or the employer's shop, whichever is closest to the job, shall be compensated at the current IRS rate for actual mileage incurred beyond the 60-mile radius, plus their regular rate of pay for travel time.

O. Plasterers
(1) Employees who travel from Albuquerque to Santa Fe should be compensated at \$20.00 per day.

(2) Except for employees who travel from Santa Fe to Albuquerque, work travel 75 miles or more from the employer's office over the most typically traveled route should be compensated at \$5.00 per hour and capped at \$40.00 per day.

P. Plumbers and pipefitters

(1) Work travel for 90 or more miles from an employee's primary residence, and involving an overnight stay, should be compensated at \$80.00 per day.

(2) No zone or subsistence pay is required should the employer elect to cover the room cost.

Q. Roofers - work travel requiring an overnight stay should be compensated at \$35.00 per day for food. Employer should provide and pay for a suitable hotel. When employees are assigned to jobs located 60 or more miles from the employer's place of business, transportation to and from the job site must be provided.

R. Sheet metal workers ~~(1) — Work travel 90 miles or more from the contractor's home base and employee's home, should be paid at \$120.00 per day subsistence pay plus base and fringe, regardless of county.~~

~~(2) — Los Alamos county: \$2.00 per hour incentive pay plus base and fringe.~~

~~(3) — Workers living 60 or more miles from a San Juan County job site shall receive \$3.00 per hour subsistence pay plus base and fringe.]~~

(1) — Subsistence will be paid in any area outside the employer's home zone unless the jobsite is within 90 miles, by most direct regularly traveled route, of an employee's principal place of residence, in which case the employer will not be required to pay subsistence to that employee while working on that jobsite.

(2) — If an overnight stay is required, \$120.00 subsistence will be paid for each day worked outside of the employer's home zone. If no overnight stay is required, travel time will be paid both ways during each day worked outside of the employer's home zone.

(3) — No subsistence pay is required should employer decide to cover room costs at a suitable location and no more than two workers are in a room.

(4) — Zone 1:

any area within an employer's home zone. An employer's home zone shall consist of 90 miles by most direct regularly traveled route from the main post office in the municipality of the employer's primary place of business, and including Los Alamos and Espanola, regardless of mileage.

(5) — Zone 2 (Industrial):

(a) — Industrial work will be defined as all new construction work performed on the following types of facilities: electrical generation plants, co-generation plants 50 megawatts and over, refineries, natural and LP gas plants, mills, mines, and concentrators. Maintenance and retrofit work are excluded.

(b) — the minimum rate of pay for all work described in subsection (a) of this section will be as indicated under zone 2 of the public works prevailing wage rates in 11.1.2.20 NMAC.

(6) — Zone 3 (Los Alamos):

(a) — All work on Los Alamos National Laboratory property, and all prevailing wage work within the county of Los Alamos.

(b) — The minimum rate of pay for all work described in subsection (a) of this section will be as indicated under zone 3 of the public works prevailing wage rates in 11.1.2.20 NMAC.

(7) — Travel:

(a) — All time spent traveling during the regular workday will be considered time worked and will be paid at the zone 1 rate of pay, provided such travel is directed by the employer. Travel before or after the regular workday will not be considered time worked and will not be paid unless required by federal or state law.

If required by law, all time spent traveling outside the regular workday will be paid at the overtime rate of time and a half times two thirds the regular zone 1 rate of pay.

(b) — If an employer sends an employee to

perform work outside the territorial jurisdiction of the United States or Canada, travel pay and subsistence arrangements shall be negotiated locally.

S. Soft floor layer

(1) — Zone 1: Base pay for an area within a 30-mile radius from the main post office in the city or town where the employee permanently resides. Albuquerque, Santa Fe, and Belen shall be considered Zone 1.

(2) — Zone 2: Work travel between 30 and 75 miles from the main post office in the town where an employee permanently resides shall be compensated at \$1.00 per hour above base pay.

(3) — Zone 3: Work travel 75 miles or more from the main post office in the town where an employee permanently resides shall be compensated at \$3.13 per hour above base pay.

(4) — Employer will furnish transportation or gasoline for all work performed beyond the 30-mile radius that encompasses the free cities of Albuquerque, Santa Fe, or Belen.

(5) — When the employee is directed to report to a job site and the distance to the job site requires the employee to stay out of town overnight, the employer shall provide housing arrangements.

T. Sprinkler fitters **(1) — Work travel between 60 and 80 miles from the employee's primary residence should be compensated at \$23.00 per day.**

(2) — Work travel between 81 and 100 miles from the employee's primary residence should be compensated at \$33.00 per day.

(3) — Work travel of 101 miles or more from the employee's primary residence should be compensated at \$125.00 per day.

(4) — No zone or subsistence pay shall be paid when the employer provides daily transportation and the employee elects to travel back and forth from home.

[11.1.2.21 NMAC - N, 1/1/2019; A,
1/1/2020; A, 1/1/2021; A, 1/1/2022;
A, 1/1/2023; A, 1/1/2024; A,
1/1/2025]

End of Adopted Rules

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Other Material Related to Administrative Law

PLACEHOLDER

**NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION**

**End of Other Material
Related to Administrative
Law**

2024 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXXV, Issues 1-24

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

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2025 New Mexico Register

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Issue 5	February 27	March 11
Issue 6	March 13	March 25
Issue 7	March 27	April 8
Issue 8	April 10	April 22
Issue 9	April 24	May 6
Issue 10	May 8	May 20
Issue 11	May 22	June 10
Issue 12	June 12	June 24
Issue 13	July 26	July 15
Issue 14	July 17	July 29
Issue 15	July 31	August 12
Issue 16	August 14	August 26
Issue 17	August 28	September 9
Issue 18	September 11	September 23
Issue 19	September 25	October 7
Issue 20	October 9	October 21
Issue 21	October 23	November 4
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