

NOTICE OF PUBLIC RULE HEARING AND REGULAR BOARD MEETING

The New Mexico Board of Optometry will hold a rule hearing on Thursday, December 1, 2022, at 9:00 a.m. Following the rule hearing, the Board will convene a regular board meeting to adopt the rules and take care of regular business. The rule hearing and board meeting will be held at the Regulation and Licensing Department, 2550 Cerrillos Road, Santa Fe, NM, in the Rio Grande Conference Room for those desiring to attend in person.

The meeting will also be held via Cisco Webex Meetings for those desiring to attend virtually.

<https://nmrld.webex.com/nmrld/onstage/g.php?MTID=e5b9eced031e021d7c46ab54f566df6dd>

To join the meeting by phone: 1-415-655-0002 United States Toll

Access Code: 2487 003 8272

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

16.16.2 - Fees

16.16.3 – Requirements for Licensure by Examination

16.16.4 – Expedited Licensure

16.16.10 – Renewal of New Mexico Optometry Licenses

16.16.25 – Licensure for Military Service Members, Spouses and Veterans

To obtain and review copies of the proposed changes and public comments, you may go to the Board's website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/optometry/optometry-rules-and-laws/> or contact the Boards and Commissions Division at (505) 476-4622.

The Board is currently accepting public written comments on the proposed amendments. Please submit written comments on the proposed changes to Roberta Perea, Board Administrator, via electronic mail at: Optometry.Bd@state.nm.us, or by regular mail at P.O. Box 25101, Santa Fe, NM 87504, no later than Wednesday, November 30, 2022. Written comments received prior to the rule hearing will be posted to the RLD website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/optometry/optometry-rules-and-laws/>. Persons will also be given the opportunity to present their written or oral comments at the public rule hearing.

The agenda for the board meeting will be posted and available at least 72 hours before the meeting on the Board website at <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/optometry/optometry-board-information/optometry-board-meetings/>. Copies of the rules or the agenda may also be obtained by contacting Roberta Perea, Board Administrator at (505) 476-4622.

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing, please contact Roberta Perea, Board Administrator (505) 476-4622.

Statutory Authority: Subsection E of Section 61-2-6 of the Optometry Act, NMSA 1978, Sections 61-2-1 to -18, specifically authorized the Board to “promulgate in accordance with the State Rules Act, all rules for the implementation and enforcement of the provisions of the Optometry Act.” In addition, 61-1-31.1 NMSA 1978 of the Uniform Licensing Act, Sections 61-1-1 to -36 NMSA 1978, provides that “A board by rule shall determine those states and territories of the United States and the District of Columbia from which the board will not accept an applicant for expedited licensure and those foreign countries from which the board will accept an applicant for expedited licensure.” Additionally, Laws 2022, ch. 39, § 104 provided that a board that is required by Laws 2022, ch. 39 to change its licensing provisions to allow for new or different expedited licensure shall have rules in place and operational by January 1, 2023.

Purpose of the Proposed Rules: The proposed rules are intended to provide greater clarity in existing regulatory and statutory requirements, ensure continued high levels of professionalism among expedited licensure applicants, and to generally satisfy the Board’s statutory obligation “to determine what constitutes the practice of optometry in accordance with the provisions of the Optometry Act.” Section 61-2-6. In addition, the proposed rule changes are intended to comply with 2022 legislative changes made during the regular session in HB 191 Uniform Licensing Act signed into law by Governor Lujan Grisham on March 3, 2022.

Summary of Proposed Changes:

16.16.2 NMAC – Fees

The amendments to this part are to add a new section to the rule to be in compliance with the 2022 legislative change regarding HB191. The proposed rule changes clarify the statutory authority, application processing fee, examination fee, license fee for examination, other administrative fees, and expedited license fee. The proposed rule adds an expedited license fee section, defines the fee amount, and replaces the license fee for endorsement candidates section.

16.16.3 NMAC – Requirements for Licensure by Examination

The amendments to this part are to be in compliance with the 2022 legislative change regarding HB191. The proposed rule changes clarify the statutory authority, objective, examination requirements, application requirements, application approval process, and ensures consistency in the rule’s language. The proposed rule change clarifies examination requirements for all applicants as well as application requirements. The proposed application requirements remove the requirement for letters of reference and a passport type photograph.

16.16.4 NMAC – Expedited Licensure

The amendments to this part includes a repeal and replace due to the 2022 legislative change regarding HB191 Uniform Licensing Act. This proposed rule sets out the requirements to apply for an “expedited license” in New Mexico. It also lists the states that are excluded from the expedited licensure process and the grounds for their exclusion. The proposed rule also includes a section defining the expedited licensure process for military service members and veterans. Lastly, the proposed rule sets out an expedited license’s duration and its renewal process. This section will be repealed and replaced.

16.16.10 NMAC – Renewal of New Mexico Optometry Licenses

The amendments to this part are to be in compliance with the 2022 legislative change regarding HB191. The proposed rule changes clarify the statutory authority and license expiration date. The rule clarifies that an initial license may be issued for a period greater than twelve months but must be less than twenty-four months in order to align license expiration dates with the renewal cycle.

16.16.25 NMAC – Licensure for Military Service Members, Spouses and Veterans

The proposed rule change contemplates a repeal of 16.16.25 NMAC due to its provisions being incorporated into the proposed rule for 16.16.4 NMAC. The proposed repeal of the existing Licensure for Military Service Members, Spouses and Veterans rule, which affords an expedited licensure process to members of the military, is in order to consolidate the expedited licensure process into 16.16.4 for both military and non-military applicants.