

NOTICE OF PUBLIC RULE HEARING

Public Notice. The New Mexico Medical Board (NMMB) gives notice that it will conduct a public rule hearing on November 10, 2023 at 10:00 AM (MDT). This rule hearing is in person and can be accessed virtually. The purpose of the public hearing is to receive public input on the proposed amendments to 16.10.2 NMAC - Physicians: Physicians Licensure Requirements, 16.10.5 NMAC - Disciplinary Power of the Board and 16.10.6 - Complaint Procedure and Institution of Disciplinary Action. Physical Hearing Location is 2055 South Pacheco Street, Bldg. 400, Santa Fe, NM 87505.

Join Zoom Meeting

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Passcode: 947330

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Purpose. During the 2023 Legislative Session HB384 passed and was signed by Governor Lujan Grisham on April 3, 2023. HB384 enacted new sections and revisions to the Medical Practice Act and the Uniform Licensing Act to provide for an expedited one-year provisional license that confers the same rights, privileges and responsibilities as a regular license issued by the Board. Additionally, HB384 authorizes the Board to determine those states and territories of the United States and the District of Columbia from which it will not accept an applicant for expedited licensure and shall determine any foreign countries from which it will accept an applicant for expedited licensure. HB384 also clarifies reasons for a licensee to be heard before the board and the timeframe for discovery by the board; authorizes issuance of specific civil investigative subpoenas for complaints licensees, applicants, or unlicensed persons; removes the requirement that licensees bear all costs of disciplinary proceedings unless they are excused or prevail; unlicensed persons with no address on record are to be personally served with any required notice; authorizes hearings to be held by virtual remote means; removes the right of a party to be represented by a licensed member of the person's profession at a hearing before the board; a complete record of hearing evidence may be made using digital recording technology; requires a final decision and order based on the hearing to be made and executed within 90 days after the hearing is closed and the board must grant or refuse a request to reopen a case within 15 days after receipt of the request. HB384 eliminates the specified \$1,000 fine for licensure violation and increases from \$1,000 to \$10,000 the penalty for practicing without a license.

The revisions and additions to the Medical Practice Act and the Uniform Licensing Act requires promulgation of rules to implement the provisions set forth in HB384.

The statutory authorization. Medical Practice Act Sections 61-6-1 through 61-6-35 NMSA 1978 and Uniform Licensing Act Sections 61-1-1 through 61-1-34, NMSA 1978.

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

Public comment. Interested parties may provide comment on the proposed amendments of this state rule at the public hearing or may submit written comments to Amanda Quintana, New Mexico Medical Board, 2055 South Pacheco Street, Bldg. 400, Santa Fe, NM 87505, or by electronic mail to AmandaL.Quintana@state.nm.us. All written comments must be received no later than 3:00 p.m. (MDT) on November 8, 2023. All written comments will be posted to the agency website within (3) three business days.

Copies of proposed rule. Copies of the proposed rules may be accessed through the New Mexico Medical Board's website at www.nmmb.state.nm.us or may be obtained from the Board office by calling (505) 476-7220 or via email at AmandaL.Quintana@state.nm.us.

Individuals with disabilities who require the above information in an alternative format, or who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Amanda Quintana at (505) 476-7230 or via email at AmandaL.Quintana@state.nm.us. The New Mexico Medical Board requires at least ten (10) calendar days advance notice to provide any special accommodations requested.

Summary of proposed changes. The Board summarizes its proposed changes to its administrative rules as follows:

16.10.2 NMAC - Physicians: Licensure Requirements

As a general summary, the proposed changes to 16.10.2 NMAC are to:

- Define a Complete Application;
- Define License Renewal;
- Change the definition of a "Military Service Member";
- Add expedited license to Categories of Active Licenses;
- Change "Medical License by Endorsement" to "Expedited Licensure";
- Remove the application requirement to receive proof of citizenship;
- Add the meaning of "continuous practice";
- Add the provision that the Board has discretion to require that an applicant for an expedited license take a competency examination;
- Add the procedure for an "incomplete" application;
- Under Criminal Arrests and Convictions include that the Board shall not exclude an otherwise qualified applicant on the sole basis that the person has been previously arrested or convicted of a crime unless the person has a disqualifying criminal conviction;

16.10.5 NMAC - Disciplinary Power of the Board

As a general summary, the proposed changes to 16.10.5 NMAC are to clarify the definitions of "license" and "Licensee"; clarify the provision for reinstatement after the suspension of a license; add the definition of "probation" and add the conditions of probation; change the penalty for practicing without a license from \$1,000 to \$10,000; add that all fines received by the Board be deposited into the current school fund; strike reimbursement of costs and add limitations to the Disciplinary Power of the Board.

16.10.6 NMAC - Complaint Procedure and Institution of Disciplinary Action

As a general summary, the proposed changes to 16.10.6 NMAC are to do some basic clarification of the rule; add acceptable correspondence methods for administrative prosecution purposes; add the provision for preemptory challenge of hearing officer in the case of more than one hearing under one case number; add to the definition of Ex Parte Communication; add deadlines for receipt of hearing officers report and define the completion and closure of a hearing; add that a record of hearing shall include all evidence proffered but not admitted and admitted evidence; add that the record shall designate and seal those portions of the record that are privileged, confidential or redacted at the direction of the hearing officer, the request of a party or the request of a witness; and add the definition of Venue of a Hearing.