

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

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

16.12.14.2 SCOPE: These rules apply to individuals licensed by the board who are providing health care in aesthetic healthcare facilities.
[16.12.14.2 NMAC - N, 5/21/2024]

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

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

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

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

16.12.14.7 DEFINITIONS:

A. “Definitions beginning with “A”:

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

- (a)** laser or energy-based skin and hair removal;
- (b)** intense pulsed light;
- (c)** ultrasonic devices;
- (d)** radio frequency devices;
- (e)** heating or cryolipolysis devices;
- (f)** electrical stimulation;
- (g)** micro-needling of any depth;
- (h)** injection of soft tissue fillers, polydioxanone (PDO) threads or neuromodulators;
- (i)** intravenous (IV) therapy;
- (j)** dermabrasion beneath the stratum corneum;
- (k)** medium-depth chemical peels (beneath the stratum corneum);
- (l)** hormone replacement therapy - insertion of hormone pellets into subcutaneous

tissue.

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

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

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

C. “Definitions beginning with “C”: “Clinical supervisor” which may also be referred to as a “clinical director”, means a licensed independent practitioner, regardless of employment title, who has appropriate

knowledge, skills, and training to perform all procedures provided at the aesthetic healthcare facility they are practicing at, and who is responsible for supervising or directing all aspects of the facilities clinical practice, including protocols, healthcare procedures, policy, and clinical staff.

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

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

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

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

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

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

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

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

L. “Definitions beginning with “L”:

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

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

(3) “LPN” means licensed practical nurse.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16.12.14.8 EDUCATION AND SCOPE OF PRACTICE:

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

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

C. Licensees in any practice setting must have appropriate training in the specific treatments they provide, as required by board rule 16.12.2 NMAC. When assuming non-traditional specific functions and procedures which are beyond the licensee’s basic educational preparation, licensees are responsibility for obtaining reasonably appropriate knowledge, skills, and supervision to ensure safe and competent performance of the function or procedure. Specific education and training components for aesthetic healthcare procedures shall include but are

not limited to, a combination of practical and didactic instruction; national aesthetic certification; techniques and theories; identifying and addressing complications and adverse events; and charting and record keeping.

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

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

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

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

16.12.14.9 CLINICAL SUPERVISOR:

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

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

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

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

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

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

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

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

16.12.14.10 PATIENT CARE:

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

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

(1) The initial examination must consist of a review of the patient's health history, and a physical examination that includes treatment sites, and the determination of a diagnosis.

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

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

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

E. Delegation of healthcare and non-healthcare duties to licensed or unlicensed individuals must be done with care and only when the licensee has ascertained that the scope of practice, education, training, and experience of the individual is appropriate and sufficient to provide adequate care to the patient. The delegating

licensee must take into consideration that individuals with the same license may not have the same qualifications or competencies. Delegation of aesthetic healthcare procedures cannot be delegated by a licensee to any individual who is not licensed in a healthcare profession.

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

16.12.14.11 PATIENT RECORDS, CONFIDENTIALITY, AND ADVERTISING:

- A.** Every patient encounter in an aesthetic healthcare facility must generate a healthcare record.
- B.** Individuals receiving aesthetic healthcare procedures from licensees in an aesthetic healthcare facility are considered patients and care must be provided to ensure confidentiality of patient information and healthcare records.
- C.** Use of patient information, including images, is subject to HIPAA and other legal protections, and use of such information must be authorized by the patient.
- D.** Advertising and marketing of aesthetic healthcare procedures is regulated and may not be deceptive, false, or misleading. Licensees must only use references to their active license and shall not represent to offer services that they do not hold an active license to provide.
- E.** Licensees working at an aesthetic healthcare facility who are aware of misuse of patient information or advertising have an obligation to protect patient confidentiality and take reasonable steps to address such issues with the clinical supervisor or other management.

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

HISTORY OF 16.12.14 NMAC: [RESERVED]