

**NEW MEXICO MEDICAL BOARD
Board Meeting
February 1-2, 2024
MINUTES**

MEETING MADE PUBLIC VIA ZOOM AND TELECONFERENCE

Members Present: Karen Carson, MD, Chair
Eric Anderson, MD, Vice Chair - EXCUSED
Kathy Johnson, PA, Secretary Treasurer
Mark Unverzagt, MD
Kristin Reidy, DO
Eileen Barrett, MD – Via Zoom on 2/1/24 -In person on 2/2/24
Peter Beaudette, MD In person on 2/1/24 – Via Zoom on 2/2/24
Buffie Saavedra, Public Member – EXCUSED

Video Conferencing: Bradley Scoggins, DO

Others Present: Amanda Quintana, Interim Executive Director
Steven Jenkusky, MD, Medical Director
Margaret McClean, Esq. Special Counsel
Tom Banner, Esq. – In person on 2/1-2
JoHanna Cox, Esq. – Administrative Prosecutor
Debbie Rodriguez, Investigations Manager
Monique Parks, Licensing Manager
Lori Arevalo, Compliance Coordinator
Ann Pacheco, Administrative Assistant

CALL TO ORDER / ROLL CALL

1. Dr. Carson, after establishing the presence of a quorum, called the February 1-2, 2024, Board Meeting of the New Mexico Medical Board to order at 8:38 AM, roll call was completed. **PRESENT**, Dr. Carson, PA Johnson, Dr. Unverzagt, Dr. Barrett Dr. Reidy and Dr. Beaudette and Dr. Scoggins. **EXCUSED**, Dr. Anderson and Buffie Saavedra.

2. **APPROVAL OF AGENDA**

MOTION was made by Dr. Carson to approve the agenda. **SECONDED**, PA Johnson. **YES**, Dr. Carson, PA Johnson, Dr. Unverzagt, Dr. Barrett Dr. Reidy and Dr. Beaudette and Dr. Scoggins. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED.**

3. EXECUTIVE SESSION: Compliance, New Mexico Health Professional Wellness Program and Complaint Committee Reports.

MOTION was made by Dr. Carson to go into Executive Session pursuant to Section 10-15-1(H) (1) of the Open Meetings Act to discuss matters pertaining to the issuance, suspension, renewal or revocation of a license and disciplinary matters. **SECONDED**, Dr. Barrett. **YES**, Dr. Carson, PA Johnson, Dr. Unverzagt, Dr. Barrett Dr. Reidy and Dr. Beaudette and Dr. Scoggins. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED.**

4. HPWP Report

Mary Lynn Griffin, Leah Nelson, MD and Adam Vareika, Executive Director from HPWP presented the status of all mandatory HPWP participants and answered questions from the Board.

5. Informal Compliance Interviews

Olan Bassett, MD, Patrick Dunphy, MD, Alezander Cotter, PA, Charlesly Joseph, Claire Pultz, PA, Don Hedges, MD were interviewed by the Board. Note: Rosemarie Freymark, MD and Vijay Agarwal, MD were unable to attend their interview.

OPEN SESSION

The Board returned to open session. Dr. Carson stated for the record that the matters discussed in executive session were limited only to those specified in the motion for closure.

6. ACTIONS RELATED TO EXECUTIVE SESSION

Complaint Committee A:

RECOMMENDATION was made by Dr. Barrett to **CLOSE** the following cases: 2022-A-159, NMMB2023-0080, NMMB2023-0124, NMMB2023-0300. **YES**, Dr. Carson, PA Johnson, Dr. Unverzagt, Dr. Reidy and Dr. Beaudette and Dr. Scoggins. **RECUSED**, Dr. Barrett **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED.**

Case # NMMB 2023-0116 RECOMMENDATION was made by Dr. Barrett to **CLOSE** this case with an advisory letter reminding physician about the importance of professional communication with peers. **YES**, Dr. Carson, PA Johnson, Dr. Unverzagt, Dr. Reidy and Dr. Beaudette and Dr. Scoggins. **RECUSED**, Dr. Barrett **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED.**

Case # NMMB 2023-0142 RECOMMENDATION was made by Dr. Barrett to **CLOSE** this case with an advisory letter to cautioning PA about his communications when questioning patients involving sensitive issues. **YES**, Dr. Carson, PA Johnson, Dr. Unverzagt, Dr. Reidy and Dr. Beaudette and Dr. Scoggins. **RECUSED**, Dr. Barrett **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED.**

Case # NMMB 2023-0144 RECOMMENDATION was made by Dr. Barrett to **CLOSE** this case with an advisory letter advising physician about improvement on medical recordkeeping. **YES**, Dr. Carson, PA Johnson, Dr. Unverzagt, Dr. Reidy and Dr. Beaudette and Dr. Scoggins. **RECUSED**, Dr. Barrett **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED.**

Case # NMMB 2023-0250 RECOMMENDATION was made by Dr. Barrett to **CLOSE** this case with a letter offering services of NMHPWP to Resident Physician if needed. **YES**, Dr. Carson, PA Johnson, Dr. Unverzagt, Dr. Reidy and Dr. Beaudette and Dr. Scoggins. **RECUSED**, Dr. Barrett **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED**.

Case # NMMB 2023-0308 RECOMMENDATION was made by Dr. Barrett to offer physician a chance to voluntarily surrender his license in NM with an effective date of April 2, 2024. Physician shall immediately provide notice to his patients about the effective date of his office closure and transition his patients to another provider no later than April 2, 2024. Physician shall not accept new patients during this transition period. If physician does not accept, a notice of contemplated action will be issued based on, but not limited to, sexual contact with a patient, conduct likely to harm, conduct unbecoming and prescribing for other than therapeutic reasons. **YES**, Dr. Carson, PA Johnson, Dr. Unverzagt, Dr. Reidy and Dr. Beaudette and Dr. Scoggins. **RECUSED**, Dr. Barrett **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED**.

Complaint Committee B:

RECOMMENDATION was made by Dr. Unverzagt to **CLOSE** the following cases: 2023-B-027, NMMB2023-0133, NMMB2023-0161, NMMB2023-0172, NMMB2023-0201, NMMB2023-0228, NMMB2023-0315. **YES**, Dr. Carson, PA Johnson, Dr. Barrett, Dr. Reidy and Dr. Beaudette and Dr. Scoggins. **RECUSED**, Dr. Unverzagt. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED**.

Case # NMMB 2024-0022 RECOMMENDATION was made by Dr. Unverzagt to close this case with an advisory letter reminding Physician about full disclosure on an application for licensure and assessing \$150 in costs. License will be issued. **YES**, Dr. Carson, PA Johnson, Dr. Barrett, Dr. Reidy and Dr. Beaudette and Dr. Scoggins. **RECUSED**, Dr. Unverzagt. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED**.

Case # 2022-B-036 RECOMMENDATION was made by Dr. Unverzagt to offer Physician Assistant an Agreed Order requiring successful completion of a medical recordkeeping course at CPEP or comparable program to be completed within 6 months; and successful completion of a minimum of 15 hours of CME approved by the American Thyroid Association or American Board of Internal Medicine in managing Thyroid Disease. If physician assistant does not accept, a notice of contemplated action will be issued based on, but not limited to, failure to maintain adequate medical records. **YES**, Dr. Carson, PA Johnson, Dr. Barrett, Dr. Reidy and Dr. Beaudette and Dr. Scoggins. **RECUSED**, Dr. Unverzagt. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED**.

Complaint Committee C:

RECOMMENDATION was made by Dr. Carson to **CLOSE** the following cases: NMMB2023-0060, NMMB2023-0078, NMMB2023-0126, NMMB2023-0305, NMMB2023-0277. **YES**, Dr. Unverzagt, PA Johnson, Dr. Barrett, Dr. Reidy and Dr. Beaudette and Dr. Scoggins. **RECUSED**, Dr. Carson. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED**.

Case# 2022-C-035 RECOMMENDATION was made by Dr. Carson to close this case with a strongly worded advisory letter reminding physician about required maintenance of accurate and complete records and improved communication with patients. **YES**, Dr. Unverzagt, PA Johnson, Dr. Barrett, Dr. Reidy and Dr. Beaudette and Dr. Scoggins. **RECUSED**, Dr. Carson. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED**.

Case# NMMB2023-0188 RECOMMENDATION was made by Dr. Carson to close this case with an advisory letter reminding physician applicant to become familiar with the Board's ethics regulations. License will be issued. **YES**, Dr. Unverzagt, PA Johnson, Dr. Barrett, Dr. Reidy and Dr. Beaudette and Dr. Scoggins. **RECUSED**, Dr. Carson. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED**.

Case# NMMB2023-0128 RECOMMENDATION was made by Dr. Carson to offer physician the following options: (1) retire his license while under investigation; or (2) enter into an Agreed Order requiring the continued inactivation of physician's license and requiring he follow all recommendations made by PRC and is deemed safe to practice; or (3) issuance of a notice of contemplated action based on, but not limited to, conduct likely to harm, interaction with patients that adversely affects patient care, repeated negligent acts, and conduct unbecoming. **YES**, Dr. Unverzagt, PA Johnson, Dr. Barrett, Dr. Reidy and Dr. Beaudette and Dr. Scoggins. **RECUSED**, Dr. Carson. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED**.

Case# NMMB2023-0156 RECOMMENDATION was made by Dr. Carson to offer physician a stipulated license requiring mandatory participation in NMHPWP. If physician refuses, a notice of contemplated action will be issued based on, but not limited to, habitual/excessive use of alcohol or substances **YES**, Dr. Unverzagt, PA Johnson, Dr. Barrett, Dr. Reidy and Dr. Beaudette and Dr. Scoggins. **RECUSED**, Dr. Carson. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED**.

Case# NMMB2023-0248 RECOMMENDATION was made by Dr. Carson to offer Physician the chance to voluntarily surrender his medical license. If he does not accept, a notice of contemplated action will be issued based on, but not limited to, conduct likely to harm, and possible criminal conviction of a felony and adverse licensure actions in another state. **YES**, Dr. Unverzagt, PA Johnson, Dr. Barrett, Dr. Reidy and Dr. Beaudette and Dr. Scoggins. **RECUSED**, Dr. Carson. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED**.

Complaint Committee D:

RECOMMENDATION was made by Dr. Scoggins to **CLOSE** the following cases: 2022-D-158, NMMB2023-0086, NMMB2023-0094, NMMB2023-0132, NMMB2023-0136, NMMB2023-0180, NMMB2023-0198, NMMB2023-0278. **YES**, Dr. Carson, Dr. Unverzagt, PA Johnson, Dr. Barrett, Dr. Reidy and Dr. Beaudette. **RECUSED**, Dr. Scoggins. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED.**

Case # NMMB2023-0074 RECOMMENDATION was made by Dr. Scoggins to close this case with an advisory letter reminding physician about maintaining professional boundaries with patients. **YES**, Dr. Carson, Dr. Unverzagt, PA Johnson, Dr. Barrett, Dr. Reidy and Dr. Beaudette. **RECUSED**, Dr. Scoggins. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED.**

Case # NMMB2023-0131 RECOMMENDATION was made by Dr. Scoggins to close this case with an advisory letter reminding physician about the timely report of adverse actions, including arrests, and assessing \$150 in costs and importance of complying with Board investigations. **YES**, Dr. Carson, PA Johnson, Dr. Unverzagt, Dr. Barrett, Dr. Reidy and Dr. Beaudette. **RECUSED**, Dr. Scoggins. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED.**

Case # NMMB2023-0157 RECOMMENDATION was made by Dr. Scoggins to close this case with a request to physician to submit his Order of Dismissal from his criminal case to the Board in April 2024. **YES**, Dr. Carson, Dr. Unverzagt, PA Johnson, Dr. Barrett, Dr. Reidy and Dr. Beaudette. **RECUSED**, Dr. Scoggins. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED.**

Case # NMMB2023-0077 RECOMMENDATION was made by Dr. Scoggins to offer physician applicant a license to practice medicine in New Mexico with a reprimand for the misrepresentations in his application. If physician applicant does not accept offer, he may withdraw his license application while under investigation or a notice of contemplated action will be issued based on, but not limited to, misrepresentations on an application for licensure and conduct unbecoming. **YES**, Dr. Carson, Dr. Unverzagt, PA Johnson, Dr. Barrett, Dr. Reidy and Dr. Beaudette. **RECUSED**, Dr. Scoggins. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED.**

Licensing Requests and Actions, New Applicants/Reinstatements

IMO: Mark Erasmus, MD – Case No. 2023-011 – Review and Decision of the Hearing Officer's Report, Findings of Fact and Conclusions of Law. **TABLED** until April 10, 2024, Board Meeting.

IMO: John Hanley, PA – Case No. 2023-038 – Review and Decision on the Prosecutor's Motion for Default Action.

MOTION was made by Dr. Scoggins to accept the Motion for Default action. **SECONDED**, Dr. Unverzagt. **YES**, Dr. Carson, Dr. Reidy, Dr. Beaudette, PA Johnson, Dr. Barrett and Dr. Scoggins, Dr. Unverzagt. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED**.

MOTION was made by Dr. Carson to Revoke PA Hanley's license to practice in New Mexico. **SECONDED**, Dr. Reidy. **YES**, Dr. Carson, Dr. Reidy, Dr. Beaudette, PA Johnson, Dr. Barrett and Dr. Scoggins, Dr. Unverzagt. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED**.

IMO: Application of **Samir Roy, MD**.

MOTION was made by Dr. Carson to go into Executive Session pursuant to Section 10-15-1(H) (1) of the Open Meetings Act to discuss matters pertaining to the issuance, suspension, renewal or revocation of a license and disciplinary matters. **SECONDED**, PA Johnson. **YES**, Dr. Carson, Dr. Reidy, Dr. Beaudette., PA Johnson, Dr. Barrett and Dr. Scoggins, Dr. Unverzagt. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED**.

OPEN SESSION

The Board returned to open session. Dr. Carson stated for the record that the matters discussed in executive session were limited only to those specified in the motion for closure.

7. Reports- [portions may be closed]**

A. Interim Executive Director

Amanda Quintana, Interim Executive Director, spoke briefly on the following topics:

- Richard Romero, Board Governmental Affairs Consultant talks with the State Legislature.
- NMMB Building Move.
- Fiscal Impact Reports.
- USMLE Irregularities Report.

B. Chair Report

Karen Carson, NMMB Chair, spoke briefly on the following topics:

- Continuing talks with the Governor's office regarding Board appointees.
- Dr. Carson discussed her attendance at the FSMB conference regarding Artificial Intelligence and how it relates to the practice of medicine, medical malpractice & legislation.
- Presentation of Plaque to Dr. Jenkusky to thank him for his years of outstanding service to the Board.

C. Medical Director Report

Steven Jenkusky, NMMB Medical Director, spoke briefly on the following topics:

- Dr. Jenkusky discussed progress on the new NMMB Website.
- NMMB Opinion on Medical Spa Procedures and regulations.
- NMMB statement on Licensing of Foreign doctors.

D. Finance

Ms. Mascarenas reported to the Board the following items.

Finance/Budget Notes

FY23 Financial Audit

- Audit Firm Porch & Associates, LLC will present the FY23 Annual Financial Audit.
- The Board needs to approve the FY23 Annual Financial Audit.

FY24 Budget/Revenue Status

- Report the FY23 Budget/Revenue Status ending December 31, 2023.
The Budget and Revenue Status ending December 31, 2023 are as follows:
 - ✓ From July 1, 2023 through December 31, 2023 expenditures total **\$1,216,451 (or 36%)** of budgeted expenditures (Opbud \$3,375,400).
 - ✓ From July 1, 2023 through December 31, 2023 the agency collected revenues in the amount of **\$751,500 (or 25.8%)** of budgeted revenues (Opbud \$2,909,900; FB \$465,500 = \$3,375,400).
- For your reference the Board received the FY24 Statistics Summary that reflects the application/renewal and other fees that makes up the total revenues collected in FY24 beginning on 7/1/23 through 12/31/2023 in the amount of **\$751,500**.
- The Cash balance as of today, February 1st 2024 is **\$1,655,704**.

IT Appropriation – Licensing Database

I provided the board with the summary report of expenditures and encumbrances to date for the Licensing Database. As of January 31, 2024 total expenditures on the Licensing Database project is \$1,518,687 (or 83.9% of the appropriated funds) and \$67,571 (or 3.7%) is currently committed through an encumbrance for Operations and Maintenance and Enhancements with Kyra Solutions. The appropriation end date is June 30, 2024. The balance remaining in the appropriation is \$224,940.

- **Thad Porch of Porch & Associates, LLC presented the FY23 Annual Financial Audit results: No Findings.**

MOTION was made by Dr. Carson to approve the FY23 Annual Financial Audit. **SECONDED**, Dr. Barrett **YES**, Dr. Carson, Dr. Reidy, Dr. Beaudette., PA Johnson, Dr. Barrett and Dr. Scoggins, Dr. Unverzagt. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED**.

FRIDAY, February 2, 2024 – 8:30 a.m.

8 Rule Hearing (SEE ATTACHED TRANSCRIPTS)

- **16.10.2 NMAC** – Physicians Licensure Requirements.
- **16.12.1 NMAC** - Transfer of Podiatry Rules from RLD to NMMB.

MOTION was made by Dr. Carson to adopt the Rules 16.10.2 NMAC: Physicians Licensure Requirements and to transfer the Podiatry Rules from RLD to NMMB. **SECONDED**, Dr. Unverzagt **YES**, Dr. Carson, Dr. Reidy, Dr. Beaudette., PA Johnson, Dr. Barrett and Dr. Scoggins, Dr. Unverzagt. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED**.

9. Government Affairs Consultant Report – Richard Romero

- Mr. Romero spoke briefly about his role of representing the Board in the legislature, the Senate Budget procedures and legislative updates.

10. Informal Compliance Interviews continued

Gordon Lee, MD, John Mohs, MD, Jeffrey Neidhart, MD, Danielle Ortega, PA, Flangan Whitsitt, MD, Sterling Willimas, MD, Fransisco Ralls, MD, Matthew Cody, MD were interviewed by the Board.

Note: Peter Tiernan, MD was excused.

11. Compliance Requests/Actions [portions may be closed*]

Claire Pultz, PA - Request for Reactivation of License

MOTION was made by Dr. Unverzagt to grant PA Pultz's request for reactivation of her license. **SECONDED**, Dr. Reidy. **YES**, Dr. Carson, Dr. Reidy, Dr. Beaudette., PA Johnson, Dr. Barrett and Dr. Scoggins, Dr. Unverzagt. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED** .

Peter Tiernan, MD - Possible Action - TABLED until May 2024 Board Meeting

MOTION was made by Dr. Carson to grant an extension on his action until the May 2024 Board meeting. **SECONDED**, Dr. Scoggins. **YES**, Dr. Carson, Dr. Reidy, Dr. Beaudette., PA Johnson, Dr. Barrett and Dr. Scoggins, Dr. Unverzagt. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED** .

Matthew Cody, MD – Request to be released from stipulations.

MOTION was made by Dr. Reidy to grant Dr. Cody's request to be released from stipulations. **SECONED**, PA Johnson. **YES**, Dr. Carson, Dr. Reidy, Dr. Beaudette., PA Johnson, Dr. Scoggins and Dr. Unverzagt. **NO**, Dr. Barrett **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED**

Don Hedges, DO – Possible Action

MOTION was made by Dr. Carson to immediately suspend Dr. Hedges license to practice medicine in New Mexico based on the Board finding reasonable cause that the provisions in the July 10, 2023, Order have been violated. Immediate suspension will remain in effect until a further order of the Board is entered. The Board shall issue a Notice of Contemplated Action within 10 days of the issuance of the Immediate suspension. **SECONDED**, Dr. Unverzagt. **YES**, Dr. Carson, Dr. Barrett, Dr. Beaudette, PA Johnson, Dr. Scoggins and Dr. Unverzagt. **NO**, Dr. Reidy. **EXCUSED**, Dr. Anderson and Buffie Saavedra. **MOTION CARRIED**

12. Old Business

- Status of Subcommittees
 - FSMB Committee – Will reconvene after attending the upcoming FSMB Conference.

- IV Drip Committee – A Policy statement will be drafted by Dr. Jenkusky for review by the Board prior to possibly convening a committee.
- Telemedicine Committee – Reconvene committee with Dr. Jenkusky, PA Johnson and Dr. Reidy to review and draft new regulations in accordance with FSMB rules.

Adjourn


There being no further business before the Board, Dr. Carson adjourned the meeting at 12:10 pm.

SUBMITTED BY: 
Amanda Quintana, Interim Executive Director

DATE: 04/11/2024

APPROVED BY: 
Karen Carson, M.D., Chair

DATE: 04/11/2024

APPROVED BY: 
Eric Anderson, M.D., Vice Chair

DATE: 04/11/2024

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3 NEW MEXICO MEDICAL BOARD
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8
9 RULE HEARING

10 February 2, 2024

11 9:01 a.m.

12 2055 South Pacheco Street

13 Building 400

14 Santa Fe, NM 87505
15
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17
18

19 PRESIDING OFFICER: KAREN CARSON, M.D.
20

21 REPORTED BY: MELISSA GOODSON, RPR, CCR #410 (Zoom)

22 VERITEXT LEGAL SOLUTIONS, LLC

23 500 4th Street, Northwest

24 Suite 105

25 Albuquerque, New Mexico 87102

A P P E A R A N C E S

Karen Carson, Chair

Steven Jenkusky, MD

Peter Beaudette, MD (Zoom)

Bradley Scoggins, DO (Zoom)

Kristin Reidy, DO

Eileen Barrett, MD

Mark Unverzagt, MD

Kathy Johnson, PA

Amanda Quintana, Executive Director

Debbie Rodriguez, Investigations Manager

Monique Parks, Licensing Manager

Ann Pacheco, Administrative Assistant

Lori Arevalo, Compliance Coordinator

Margaret McLean, Attorney

Johanna Cox, Admin Prosecutor

Vanessa Montoya, Investigator

David Dominguez, Investigator

Thomas W. Banner, Attorney

Janet Simon (Zoom)

Julie Ruetten (Zoom)

Annie Jung (Zoom)

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I N D E X

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RULE HEARING	4
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E X H I B I T S

Description	Page Introduced	Page Admitted
Exhibit 1 NMAC 16-10-2	8	12
Exhibit 2 Podiatric Physician Rules	8	12
Exhibit 3 Legal Affidavit	8	12
Exhibit 4 NM Sunshine Notice	8	12
Exhibit 5 Albuquerque Journal Notice	8	12
Exhibit 6 Troy Clark Public Comment	8	12
Exhibit 7 Annie Jung/Todd Williams Public Comment	8	12
Exhibit 8 Summaries of Applicants	8	12
Exhibit 9 NMSA 1978 61-6-3	8	12
Exhibit 10 Margaret McLean Memo	9	12
Exhibit 11 Attendance Sheet	16	16
Reporter's Certificate		18

1 CHAIR CARSON: This is for 16.10.2 NMAC
2 Physician Licensure Requirements and transfer podiatry
3 rules from RLD to New Mexico Medical Board. The
4 hearing will please come to order.

5 I am Karen Carson, M.D., and Chair of the
6 New Mexico Medical Board. I will be acting as the
7 presiding officer for this rule hearing. Pursuant to
8 NMSA 1978 61-6-1B of the Medical Practice Act, in the
9 interest of the public health, safety, and welfare,
10 and to protect the public from the improper,
11 unprofessional, incompetent, and unlawful practice of
12 medicine, it is necessary to provide laws and rules
13 controlling the granting and use of the privilege to
14 practice medicine, to establish a medical board to
15 implement and enforce the laws and rules. The mission
16 of the board is to promote excellence in the practice
17 of medicine through licensing, discipline, and
18 rehabilitation.

19 The purpose of this hearing is for the
20 board to receive public comment on the proposed
21 changes to 16.10.2 NMAC Physicians: Licensure
22 Requirements. As a general summary, based on House
23 Bill 384, the Uniform Licensing Act and the Medical
24 Practice Act and with the support from the New Mexico
25 Medical Society and the New Mexico Hospital

1 Association, the proposed changes to 16.10.2 NMAC are
2 to: Define a complete application; define license
3 renewal; change the definition of a military service
4 member; add expedited license to categories of active
5 licenses; change medical license by endorsement to
6 expedited licensure; remove the application
7 requirement to receive proof of citizenship; add the
8 meaning of continuous practice; add the provision that
9 the board has discretion to require that an applicant
10 for an expedited license take a competency
11 examination; add the procedure for an incomplete
12 application; under criminal arrest and convictions,
13 include that the board shall not exclude an otherwise
14 qualified applicant on the sole basis that the person
15 has been previously arrested or convicted of a crime
16 unless the person has a disqualifying criminal
17 conviction.

18 The podiatric physician rules, as a
19 general summary, pursuant to House Rule 83 has been
20 signed by the governor after the 2023 legislative
21 session. The New Mexico Medical Board is transferring
22 podiatric physician rules from Regulation and
23 Licensing Department to the New Mexico Medical Board.

24 May I remind everyone to sign the
25 attendance sheet that will later be entered in as an

1 exhibit into the record of this hearing.

2 Attendees via Zoom, your names and titles
3 will be added to the transcript.

4 Would the interim executive director,
5 Amanda Quintana, call the role of board members
6 present for this hearing?

7 MS. QUINTANA: Dr. Carson.

8 CHAIR CARSON: Carson here.

9 MS. QUINTANA: PA Johnson.

10 MS. JOHNSON: Johnson here.

11 MS. QUINTANA: Dr. Unverzagt.

12 DR. UNVERZAGT: Unverzagt here.

13 MS. QUINTANA: Dr. Scoggins.

14 DR. SCOGGINS: Scoggins here.

15 MS. QUINTANA: Dr. Reidy.

16 DR. REIDY: Reidy here.

17 MS. QUINTANA: Dr. Barrett.

18 DR. BARRETT: Barrett here.

19 MS. QUINTANA: Dr. Beaudette.

20 Dr. Beaudette, can you hear us?

21 DR. BEAUDETTE: Yes.

22 CHAIR CARSON: All right. Let the record
23 show that Tom Banner and Margaret McLean, the board's
24 attorney and special counsel, are present to advise
25 the board.

1 For the record, would the members of the
2 audience please introduce themselves, state their
3 affiliation, and inform the board if they wish to
4 present testimony.

5 MS. QUINTANA: Let's see, Janet Simon,
6 can you introduce yourself?

7 MS. SIMON: Good morning. Janet Simon.
8 I'm the executive director for the New Mexico
9 Podiatric Medical Association and serve as the ex
10 officio member on the Podiatric Advisory Committee.
11 Thank you.

12 MS. QUINTANA: Annie Jung.

13 MS. JUNG: Good morning. This is Annie
14 Jung. I'm executive director of New Mexico Medical
15 Society, and I do not intend to present today.

16 MS. QUINTANA: Thank you. Julia Ruetten.

17 MS. RUETTEN: Hi. Good morning. This is
18 Julia. I'm with the New Mexico Hospital Association,
19 and I don't have any public comment to provide today,
20 but we did submit written comments last week, I
21 believe. Thank you.

22 MS. QUINTANA: Thank you.

23 CHAIR CARSON: All right. Thank you.
24 This public hearing is now open. Ms. Quintana, at
25 this time, do you have any exhibits to introduce into

1 evidence?

2 MS. QUINTANA: I do. Exhibit 1, Title
3 16, Chapter 10, Part 2, NMAC, proposed changes to the
4 board's rule, title "Physicians: Licensure
5 Requirements." Exhibit 2, podiatric physician rules.
6 Proposed change is to transfer the podiatric physician
7 rules from RLD to the NMMB. Exhibit Number 3, the
8 legal affidavit of publication in the New Mexico
9 Register, published December 19, 2023, meeting the
10 advanced notice requirement for a public rule hearing.

11 Exhibit Number 4, the legal notice posted
12 in the New Mexico Sunshine portal on January 1, 2024,
13 meeting the advanced notice requirement for a public
14 rule hearing. Exhibit Number 5, the legal notice
15 published in the Albuquerque Journal on December 29,
16 2023, meeting the advanced notice requirement for a
17 public rule hearing. Exhibit Number 6, public comment
18 from Troy Clark, President and CEO of the New Mexico
19 Hospital Association.

20 Exhibit Number 7, public comment from
21 Annie Jung, Executive Director of NMMS, and Todd
22 Williams, M.D., President of the NMMS. Exhibit Number
23 8, summaries of applicants who would have been
24 licensed if the board's current vetting system had not
25 been done. Exhibit Number 9, NMSA 1978 Section

1 61-6-13 Physician Expedited Licensure. And Exhibit
2 Number 10, memo, dated January 31, 2024, from Margaret
3 McLean, Special Counsel, regarding 16.10.2 NMAC
4 Revisions and Amendments, after the hearing held on
5 November 10, 2023, and consideration of public
6 comments received from the New Mexico Hospital
7 Association and the New Mexico Medical Society.

8 CHAIR CARSON: Thank you. Are there any
9 questions from the board members?

10 DR. UNVERZAGT: I have one question.

11 CHAIR CARSON: Dr. Unverzagt.

12 DR. UNVERZAGT: Oh, yeah, sorry, Mark
13 Unverzagt. Can you hear me okay, Melissa?

14 THE REPORTER: Yes, sir.

15 DR. UNVERZAGT: Actually, I think just
16 one comment of -- Monique, but the word -- let me get
17 my notes here. You said a word, "provisional," under
18 expedited --

19 THE REPORTER: I'm sorry, Doctor, I can't
20 hear you.

21 DR. UNVERZAGT: Is the use of the word
22 "provisional" under expedited license a problem for
23 Medicare or Medicaid? I thought that came up earlier
24 when we were going through other jobs.

25 MS. PARKS: It could present a problem

1 for Medicaid or Medicare, because once they see that
2 "provisional," we do -- they are not -- they consider
3 a provisional a temporary license and not a full
4 licensure.

5 MS. QUINTANA: Monique, state your name.

6 MS. PARKS: Monique Parks, Licensing
7 Manager.

8 So that -- it is a possibility, but we
9 have not talked about the language that's going in the
10 actual license.

11 DR. UNVERZAGT: So it's okay to that it's
12 in the rules, but it's what ends up on the license
13 that's the issue?

14 MS. PARKS: Correct.

15 DR. UNVERZAGT: All right. Fine.

16 MS. QUINTANA: Thank you, Monique.

17 MS. JOHNSON: Are we talking about the
18 physician one or both?

19 CHAIR CARSON: Both. But you can't make
20 any changes during the rule hearing unless -- if you
21 feel that changes have to be made, then the rules have
22 to be brought back to being --

23 MS. JOHNSON: I see.

24 CHAIR CARSON: Do you have a question
25 or --

1 MS. JOHNSON: It's more about the use of
2 certain terminology on the podiatry rules, and so I
3 don't think it's a -- I'm not sure that it's a
4 question.

5 MS. QUINTANA: This is Amanda Quinn. So
6 what I needed to do is, just do the transfer since
7 it's been --

8 MS. JOHNSON: Yes. I see.

9 MS. QUINTANA: So then what we'll do is,
10 we'll go back in and fine tune the rules for our
11 board.

12 THE REPORTER: Amanda, who are you
13 speaking to?

14 MS. JOHNSON: I'm Kathy Johnson.

15 CHAIR CARSON: Any questions? Yes,
16 Margaret McLean.

17 MS. MCLEAN: Margaret McLean, Special
18 Counsel, in response to Dr. Unverzagt's question to
19 Monique Parks. Doctor, we are following Section
20 61-1-31.1B, which is in the statute that we have to
21 follow, and it explains, "An expedited license is a
22 one-year provisional license that confers the same
23 rights, privileges and responsibilities as regular
24 licenses issued by a board." So we're following that
25 language explicitly.

1 DR. UNVERZAGT: Sure.

2 MS. MCLEAN: And it includes the word,
3 "provisional."

4 DR. UNVERZAGT: Sure.

5 CHAIR CARSON: Any other questions?

6 Exhibits 1 through 10 are hereby admitted
7 into the record.

8 (ExhibitS 1 through 10 admitted into the record.)

9 CHAIR CARSON: Any persons wishing to
10 testify and who wish to submit evidence with their
11 comments shall do so when they're recognized to testify.
12 Each document submitted shall be introduced as an
13 exhibit into the record. Board members will be
14 permitted to ask questions before I rule on the
15 admissibility of the evidence. If admitted, each
16 exhibit will be marked and numbered and entered into the
17 record.

18 Would anyone wish to comment on the
19 proposed changes to the board's rules that have been
20 posted and advertised for 30 days prior to this hearing
21 and that I just summarized on record?

22 Ms. Simon. Janet Simon.

23 MS. SIMON: Yes, I'm sorry. Is this, I
24 guess, the appropriate time to make my comments about
25 the podiatric rules?

1 CHAIR CARSON: Yes.

2 MS. SIMON: So my first comment is just
3 a, let's say, clerical one. It pertains to 16.21.3.8
4 Section B. That language pertaining to the American
5 Podiatric Medical Association Council on Medical
6 Education, that should, in my opinion, be consistent
7 with the same language in 16.21.3.7B that has it as
8 the American Podiatric Medical Association Council on
9 Podiatric Medical Education. In other words, the
10 first section I indicated is missing the word
11 "podiatric" in the "Council on Medical Education." It
12 should be "Council on Podiatric Medical Education,"
13 again, for consistency purposes.

14 MS. QUINTANA: Okay. Janet, this is
15 Amanda Quintana. I just wanted to sort of tell you
16 how this will work. We can't make those changes
17 during this meeting, because it's already been
18 advertised as having those -- the wording has already
19 been advertised, so we can't change it. So what we're
20 going to do is, do the transfer of the rules, and then
21 we'll get together with our committee, and we'll fine
22 tune them after.

23 MS. SIMON: Whatever your, probably,
24 protocol is, I am familiar with RLD proceedings, and I
25 know if it was clearly an oversight and clerical

1 error, they were able to correct those types of
2 errors.

3 MS. QUINTANA: Okay. Did you have
4 another one? Any other --

5 MS. SIMON: Yes. I want to express,
6 certainly, some concern about Title 20, Chapter 3,
7 Part 20, the radiation protection and medical imaging
8 radiation therapy licensure. We were not given due
9 notice of what you are presenting as a rule -- "we,"
10 meaning our Podiatric Medical Association, nor our
11 actual Podiatric Advisory Committee. And I would hope
12 that we could have some obvious time to review that
13 and give our input on what is in this.

14 In fact, we, as a Podiatry Advisory
15 Committee, was not even given notice officially other
16 than me really looking at the website to identify that
17 this was a rules hearing. So I just hope that we
18 could have some improved communication on -- between
19 all of us. Thank you.

20 DR. JENKUSKY: May I ask a question?
21 This is Dr. Jenkusky. Were these not the preexisting
22 regs under RLD?

23 MS. QUINTANA: The radiation ones were
24 not. Those were added in the statute per HB85.

25 DR. JENKUSKY: Okay. So they -- but they

1 are in statute?

2 MS. QUINTANA: They are in statute.

3 DR. JENKUSKY: Okay. Thank you.

4 CHAIR CARSON: So as I understand it,
5 these regs were placed --

6 MS. QUINTANA: Right.

7 CHAIR CARSON: -- from a bill, and that
8 was duly noticed.

9 All right. Does anybody have any other
10 comments? Do we have any other public comment?

11 All right. Board members, do we have any
12 other questions?

13 DR. UNVERZAGT: Actually -- this is
14 Unverzagt -- at what point do we have to clean up the
15 rules? Is there a time limit?

16 MS. QUINTANA: There's not a time limit.
17 We'll do it immediately.

18 DR. UNVERZAGT: Just whenever --

19 MS. QUINTANA: Yes, we will put together
20 the subcommittee for them, and we'll start going
21 through the rules.

22 DR. UNVERZAGT: Okay.

23 CHAIR CARSON: All right. As there are
24 no more questions or discussion, I'm going to close
25 the hearing. At this time, the attendance sheet shall

1 be marked as an exhibit and entered into the record.

2 MS. QUINTANA: I ask admission of the
3 attendance sheet as Exhibit Number 11.

4 CHAIR CARSON: Exhibit Number 11 is
5 hereby admitted into the record.

6 (Exhibit 11 admitted into the record.)

7 CHAIR CARSON: The comments submitted and
8 discussion heard during the rule hearing will be
9 considered and discussed further by the board during the
10 open meeting following rule hearing. The proposed rule
11 will be voted on by the board at that time. Any rules
12 adopted by the board will be found in state records and
13 archives in accordance with the State Rules Act and New
14 Mexico register publication deadlines.

15 The adopted rule becomes effective 30 days
16 after they are filed at records and -- . The regular
17 meeting of the board will begin immediately following
18 the rule hearing.

19 Let the record show that this hearing was
20 adjourned at 9:19 a.m.

21 (Off Record from 9:19 a.m. to 9:20 a.m.)

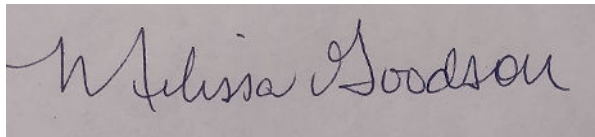
22 CHAIR CARSON: I would like to make a
23 motion that we adopt the rules, 16.10.2, NMAC Physician
24 Licensure Requirements, and the transfer of the podiatry
25 rules from RLD to New Mexico Medical Board.

1 DR. BARRETT: I'll second.
2 MS. QUINTANA: Dr. Carson?
3 CHAIR CARSON: Carson, yes.
4 MS. QUINTANA: Dr. Barrett?
5 DR. BARRETT: Barrett, yes.
6 MS. QUINTANA: Dr. Beaudette?
7 DR. BEAUDETTE: Beaudette, yes.
8 MS. QUINTANA: Dr. Unverzagt?
9 DR. UNVERZAGT: Unverzagt, yes.
10 MS. QUINTANA: PA Johnson?
11 MS. JOHNSON: Johnson, yes.
12 MS. QUINTANA: Dr. Reidy?
13 DR. REIDY: Reidy, yes.
14 MS. QUINTANA: Dr. Scoggins?
15 DR. SCOGGINS: Scoggins, yes.
16 CHAIR CARSON: All right. Thank you.
17 And, Melissa, I think we're finished.
18 (Proceedings adjourned 9:20 a.m.)
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REPORTER'S CERTIFICATE

I, MELISSA GOODSON, RPR, NM CCR #410, DO
HEREBY CERTIFY that the proceedings in the above-
captioned matter were transcribed by me, that I did
report in stenographic shorthand the proceedings set
forth herein, and the foregoing pages are a true and
correct transcription to the best of my ability.

I FURTHER CERTIFY that I am neither employed
by nor related to nor contracted with (unless excepted
by the rules) any of the parties or attorneys in this
case, and that I have no interest whatsoever in the
final disposition of this matter in any court.

A rectangular box containing a handwritten signature in dark ink. The signature appears to read "Melissa Goodson" in a cursive script.

MELISSA GOODSON, RPR

New Mexico CCR #410

License Expires: 12/31/24

[1 - appropriate]

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New Mexico Medical Board



RULE HEARING PACKET

- 1) Exhibit #1 **Title 16, Chapter 10, Part 2 NMAC** – Proposed changes to the Board's rule entitled "*Physicians: Licensure Requirements*".
- 2) Exhibit #2 **Podiatric Physician Rules**: Proposed changes to transfer the Podiatric Physician Rules from RLD to the NMMB.
- 3) Exhibit #3 The legal affidavit of publication in the **New Mexico Register**, published December 9, 2023, meeting the advance notice requirement for a public rule hearing.
- 4) Exhibit #4 The legal notice posted in the **New Mexico Sunshine Portal** on January 1, 2024 meeting the advance notice requirement for a public rule hearing.
- 5) Exhibit #5 The legal notice published in the **Albuquerque Journal**, on December 29, 2023 meeting the advance notice requirement for a public rule hearing.
- 6) Exhibit #6 – Public Comment from Troy Clark, President & CEO of the New Mexico Hospital Association.
- 7) Exhibit #7 – Public Comment from Annie Jung, Executive Director of the NMMS and Todd Williams, MD, President of the NMMS.
- 8) Exhibit #8 – Summaries of applicants who would have been licensed if the Board's current vetting system had not been done.
- 9) Exhibit #9 – NMSA 1978, §61-6-13. Physician Expedited Licensure
- 10) Exhibit #10 – Memo dated January 31, 2024 from Margaret McLean, Special Counsel, regarding 16.10.2 NMAC revisions and amendments after the hearing held on November 10, 2023 and consideration of public comments received from the NM Hospital Association and the NM Medical Society.

11) EXHIBIT ATTENDEES

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 10 MEDICINE AND SURGERY PRACTITIONERS
PART 2 PHYSICIANS: LICENSURE REQUIREMENTS

16.10.2.7 DEFINITIONS:

A. "Absence of good moral character" means any conduct that calls into question an applicant's fitness or suitability to engage in licensed practice, or that is antithetical to the promotion of the public health, safety, and welfare, as determined by the board, constitutes a lack of good moral character. The conduct subject to the board's evaluation for good moral character may or may not arise in the context of professional practice.

B. "ABMS" means the American board of medical specialties.

~~[B.]~~ **C. "AOA"** means the American osteopathic association.

~~[C.]~~ **D. "AOA-BOS"** means the American osteopathic association bureau of osteopathic specialists.

~~[D.]~~ **E. "Board approved school"** means a medical school that has been approved by the liaison committee on medical education, composed of the American medical association and the association of American medical colleges, has a liaison council on medical education (LCME)-approved curriculum or equivalent for graduates of Canadian schools, is accredited by the American osteopathic association or commission on osteopathic accreditation, or has been approved by the board. Foreign medical graduates that are vetted and approved for a board approved training program and hold an ECFMG certification are considered to have graduated with an acceptable medical education, as if they have graduated from a board approved school.

~~[E.]~~ **F. "Board approved training program"** means a program approved by the accrediting council on graduate medical education of the American medical association (ACGME), is approved by American osteopathic association (AOA), the royal college of physicians and surgeons of Canada (RCPSC), or a residency program located within an ACGME approved institution that has been approved by the board.

~~[F.]~~ **G. "Board approved credential verification service"** means a credential verification service certified by the national commission on quality assurance (NCQA) and approved by the board.

H. "Complete application" means an application for licensure that includes all required documentation in 16.10.2 NMAC and subject to the provisions of Section 61-6-11 NMSA 1978 and Section 61-1-3.5 NMSA

~~[G.]~~ **I. "Disqualifying criminal conviction"** means a conviction pursuant to the Uniform Licensing Act, Section 61-1-36 NMSA 1978, for a crime that is job-related for the position in question and consistent with business necessity.

~~[H.]~~ **J. "ECFMG"** means educational commission for foreign medical students.

~~[I.]~~ **K. "FCVS"** means the federation credential verification service of the federation of state medical boards.

~~[J.]~~ **L. "Good moral character"** means qualities evidencing an applicant's present good moral character for purposes of licensure including candor, honesty, integrity, a respect for the law, regard for the welfare, safety, and rights of another, and fidelity and trustworthiness in the practice of the professions for which they may be licensed. Conversely, an applicant whose conduct reflects the absence of one or more of these qualities may be said to lack the good moral character required for licensure. It is a continuing duty to exhibit good moral character as a licensee. Absence of good moral character means any conduct that calls into question an applicant's fitness or suitability to engage in licensed practice, or that is antithetical to the promotion of the public health, safety, and welfare, as determined by the board, constitutes a lack of good moral character. The conduct subject to the board's evaluation for good moral character may or may not arise in the context of professional practice.

~~[K.]~~ **M. "HSC"** means the hospital services corporation, a New Mexico corporation, and a credential verification organization certified by the national commission on quality assurance (NCQA).

N. "License renewal" means the renewal of an active license with the required documentation and the submission by the licensee to a state and national background check, as determined by the board.

~~[L.]~~ **O. "Major disaster"** means a declaration of a major disaster by the federal emergency management agency (FEMA).

~~[M.]~~ **P. "Military service member"** means a person who is:

(1) serving in the armed forces of the United States as an active-duty member, or in [a] an active reserve component of the armed forces of the United States, including the national guard.

(2) the spouse of a person who is serving in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard, or a surviving spouse of a member who at the time of the member's death was serving on active duty; or

(3) the child of a military service member if the child is also a dependent of that person for federal income tax purposes.

[N.] Q. "Nationwide criminal history record[s]" means information concerning a person's arrests, indictments, or other formal criminal charges and any dispositions arising therefrom, including convictions, dismissals, acquittals, sentencing and correctional supervision, collected by criminal justice agencies and stored in the computerized databases of the federal bureau of investigation, the national law enforcement telecommunications systems, the department of public safety or the repositories of criminal history information in other states.

[Q.] R. "Nationwide criminal history screening[s]" means a criminal history background investigation of an applicant for licensure by examination or endorsement through the use of fingerprints reviewed by the department of public safety and submitted to the federal bureau of investigation, resulting in the generation of a nationwide criminal history record for that applicant.

[R.] S. "Out of state sports team[s]" means an entity or organization:

- (1) for which athletes engage in sporting events;
- (2) headquartered or organized under laws other than the laws of New Mexico; and
- (3) a majority of whose staff and athletes are residents of another state.

[Q.] T. "Physician" means allopathic doctor (MD) or doctor of osteopathy (DO).

U. "Qualified applicant" means an applicant for licensure who satisfies the requirements and standards for licensure established by the board.

[R.] ~~"Recent veteran" means a person who has received an honorable discharge or separation from military service within the two years immediately preceding the date the person applies for a medical license pursuant to 16.10.2.17 NMAC. The veteran shall submit a copy of Form DD214, or its equivalent, as part of the application process.~~

[S.] V. "Sporting event" means a scheduled sporting event involving an out of state sports team for which an admission fee is charged to the public, including any preparation or practice related to the activity.

[E.] W. "Telemedicine" means the practice of medicine across state lines as defined in the Medical Practice Act, Subsection K of Section 61-6-6 [K] NMSA 1978.

X. ~~"Veteran" means a person who received an honorable discharge or separation from military service.~~

[16.10.2.7 NMAC - Rp 16 NMAC 10.2.7, 4/18/2002; A, 1/20/2003; A, 10/7/2005; A, 12/30/2005; A, 7/1/2006; A, 1/10/2007; A, 10/11/2013; A, 7/12/2022]

16.10.2.8 CATEGORIES OF ACTIVE LICENSES: Individuals holding one of the following categories of medical license are eligible to practice medicine and surgery in New Mexico.

A. Expedited license: A one-year provisional license that confers the same rights, privileges and responsibilities as a medical license issued by the board as defined in Section 61-6-13 NMSA

[A.] B. **Medical:** An unrestricted license to practice medicine and surgery.

[B.] C. **Telemedicine:** A limited medical license that allows a physician located outside New Mexico to practice medicine on patients located in New Mexico.

[C.] D. **Post-graduate:** A limited training license issued by the board to physicians who are enrolled in a board approved training program.

[D.] E. **Public service:** A limited license issued by the board to physicians in training who have successfully completed one year of post-graduate training.

[E.] F. **Temporary:** A limited license that allows a physician to practice medicine for a limited time after meeting certain specific conditions.

[F.] G. **Federal emergency:** An unrestricted license to practice medicine and surgery issued without receipt of all documentation required for a medical license because of a major disaster. [16.10.2.8 NMAC - N, 4/18/2002; A, 4/3/2005; A, 12/30/2005]

16.10.2.9 MEDICAL LICENSE BY EXAMINATION:

1 A. **Prerequisites for licensure:** Each applicant for a license to practice as a physician in New
2 Mexico must be of good moral character and must possess the following qualifications:

3 (1) graduated and received a diploma from a board approved school, completed a program
4 determined by the board to be substantially equivalent to a U.S. medical school, based on board review of a full
5 ECFMG certification, or the board shall, in its sole discretion, determine if the applicant's total educational and
6 professional clinical experience is substantially equivalent to that which is required for licensure in New Mexico;
7 and

8 (2) successfully passed one of the examinations or combinations of examinations defined in
9 16.10.3 NMAC; and

10 (3) completed two years of postgraduate training or been approved by the board in
11 accordance with the provisions of Subsection B of Section 61-6-11 NMSA 1978;

12 (4) when the board has reason to believe that an applicant for licensure is not competent to
13 practice medicine, it may require the applicant to complete a special competency examination or to be evaluated for
14 competence by other means that have been approved by the board; and

15 (5) a qualified applicant who has not been actively and continuously in practice for more
16 than two years prior to application may be required to successfully complete a special examination or evaluation
17 such as, but not limited to, the SPEX (special purpose examination), the PLAS (post-licensure assessment system of
18 the federation of state medical boards), or specialty re-certification.

19 B. **Required documentation for all applicants:** Each applicant for a license must submit the
20 required fees as specified in 16.10.9.8 NMAC and the following documentation:

21 a complete and signed application with a passport-quality photo taken within the previous six months; applications
22 are valid for one year from the date of receipt by the board;

23 (2) verification of licensure in all states or territories where the applicant holds or has held a
24 license to practice medicine, or other health care profession; verification must ~~be received directly from the other~~
25 ~~state board(s), and must~~ attest to the status, issue date, license number, and other information requested and
26 contained on the form; this information will be provided by HSC or another board-approved credentials verification
27 service for applicants using that service, or directly to the New Mexico medical board for applicants using FCVS or
28 applying directly to the board;

29 (3) two recommendation forms from physicians, chiefs of staff or department chairs or
30 equivalent with whom the applicant has worked and who have personal knowledge of the applicant's character and
31 competence to practice medicine; the recommending physicians must have personally known the applicant and have
32 had the opportunity to personally observe the applicant's ability and performance; forms must be sent directly to the
33 board from the recommending physicians~~;~~, ~~chiefs of staff, department chairs, or equivalent.~~ This information will
34 be provided by HSC or another board-approved credentials verification service for applicants using that service, or
35 directly to the New Mexico medical board for applicants using FCVS or applying directly to the board;

36 (4) verification of all three work experience and hospital affiliations in the last two years, if
37 applicable, not to include postgraduate training; this information will be provided by HSC or another board
38 approved credentials verification service for applicants using that service, or directly to the New Mexico medical
39 board for applicants using FCVS or applying directly to the board;

40 (5) a copy of all American board of medical specialties (ABMS) specialty board
41 certifications, or American osteopathic association bureau of osteopathic specialists (AOA-BOS) if applicable; this
42 information will be provided by HSC or another board-approved credentials verification service for applicants using
43 that service, or directly to the New Mexico medical board for applicants using FCVS or applying directly to the
44 board; and

45 (6) the board may request that applicants be investigated by the biographical section of the
46 American medical association (AMA), the drug enforcement administration (DEA), the federation of state medical
47 boards (FSMB), the national practitioner data bank (NPDB), and other sources as may be deemed appropriate by the
48 board.

49 ~~(7) — applicants who are not United States citizens must provide proof that they are in~~
50 ~~compliance with the immigration laws of the United States.~~

51 C. **Additional documentation for applicants using the FCVS:** Applicants are encouraged to use
52 the FCVS because, once a credential file is created, future applications for medical licensure will be streamlined.
53 However, application through FCVS is not required. Applicants using the FCVS must submit a completed

1 application to the FCVS, who will provide primary source documentation to the board. Only the documents required
2 in Subsection B of 16.10.2.9 NMAC are required in addition to the FCVS report.

3 **D. Additional documentation for applicants using HSC or another board-approved credentials**
4 **verification service:**

- 5 (1) status report of educational commission for foreign medical graduates (ECFMG)
6 certification sent directly to the board from ECFMG, if applicable;
7 (2) copy of ECFMG interim letter documenting additional postgraduate training for
8 international medical graduates applying through the fifth pathway process, if applicable;
9 (3) certified transcripts of exam scores as required in 16.10.3 NMAC sent directly to the
10 board from the testing agency;
11 (4) proof of identity may be required; acceptable documents include birth certificate,
12 passport, naturalization documents, and visas.

13 **E. Additional documentation for applicants applying directly to New Mexico and not using**
14 **FCVS or HSC or another board-approved credentials verification service:**

- 15 (1) verification of medical education form with school seal or notarized, sent directly to the
16 board from the school;
17 (2) transcripts sent directly to the board from the medical school;
18 (3) status report of ECFMG certification sent directly to the board from ECFMG, if
19 applicable;
20 (4) copy of ECFMG interim letter documenting additional postgraduate training for
21 international medical graduates applying through the fifth pathway process, if applicable;
22 (5) postgraduate training form sent to the board directly from the training program;
23 (6) certified transcripts of exam scores as required in 16.10.3 NMAC sent directly to the
24 board from the testing agency; ~~and~~
25 (7) proof of identity may be required; acceptable documents include birth certificate,
26 passport, naturalization documents, and visas; and
27 (8) certified copies of source documents obtained directly from another state licensing
28 jurisdiction who has the original document on file will be accepted in lieu of original documents when the originals
29 cannot be obtained for a valid cause.

30 **F. Licensure process:** Upon receipt of a completed application, including all required
31 documentation and fees, the applicant may be scheduled for a personal interview before the board, a board member
32 designated by the board, or an agent of the board and must present original documents as requested by the board.
33 The initial license will be issued following completion of any required interview, or approval by a member or agent
34 of the board.

35 **G. Initial license expiration:** Medical licenses shall be renewed on July 1 following the date of
36 issue. Initial licenses are valid for a period of not more than thirteen months or less than one month. If New Mexico
37 is the first state of licensure, initial licenses are valid for a period of not less than 24 months or more than 35 months
38 and shall be renewed on July 1.

39 [16.10.2.9 NMAC - N, 5/1/2002; A, 1/20/2003; A, 7/1/2003; A, 4/3/2005; A, 10/7/2005; A, 7/1/2006; A, 1/10/2007;
40 A, 1/3/2008; A, 10/11/2013; A, 01/15/2014; A, 7/12/2022]

41
42 **16.10.2.10 ~~[MEDICAL LICENSE BY ENDORSEMENT:] EXPEDITED LICENSURE:~~**

43 **A. Prerequisites for expedited licensure:** Each applicant for an expedited license to practice as a
44 physician in New Mexico ~~[by endorsement]~~ must be of good moral character, hold a full and unrestricted license to
45 practice medicine in another state, and possess the following qualifications:

- 46 (1) have practiced medicine in the United States or Canada immediately preceding the
47 application for at least three years;
48 (2) be free of any disciplinary history, license restrictions, or pending investigations in all
49 jurisdictions where a medical license is or has been held;
50 (3) graduated from a board approved school or hold current ECFMG certification; and
51 (4) current certification from a medical specialty board recognized by the ABMS or the

52 AOA-BOS.

1 **B. Required documentation for all expedited licensure applicants:** Each applicant for an
2 expedited license must submit the required fees as specified in 16.10.9.8 NMAC and the following documentation:
3 (1) a complete and signed application that has been verified as including all required
4 documentation and includes a passport-quality photo taken within the previous six months; applications are valid for
5 one year from the date of receipt by the board;
6 (2) verification of licensure in all states or territories where the applicant holds or has held a
7 license to practice medicine, or other health care profession; verification must ~~[be received directly from the other~~
8 ~~state board(s), and must]~~ attest to the status, issue date, license number, and other information requested and
9 contained on the form;
10 (3) two recommendation forms from physicians, chiefs of staff or department chairs or
11 equivalent with whom the applicant has worked and who have personal knowledge of the applicant's character and
12 competence to practice medicine; the recommending physician(s) must have personally known the applicant and
13 have had the opportunity to personally observe the applicant's ability and performance; forms must be sent directly
14 to the board from the recommending physician(s), ~~;~~ chief(s) of staff, department chair(s) or equivalent(s). This
15 information will be provided by HSC or another board-approved credentials verification service for applicants using
16 that service, or directly to the New Mexico medical board;
17 (4) verification of all work experience and hospital affiliations in the last three years~~;~~ if
18 more than one work experience and hospital affiliation, provide at least three verifications of all work and hospital
19 affiliations during the past three years, if applicable, not to include postgraduate training; this information will be
20 provided by HSC or another board-approved credentials verification service for applicants using that service, or
21 directly to the New Mexico medical board;
22 (5) a copy of all ABMS or AOA-BOS specialty board certifications, if applicable; this
23 information will be provided by HSC or another board-approved credentials verification service
24 for applicants using that service, or directly to the New Mexico medical board; and
25 (6) the board may request that applicants be investigated by the biographical section of the
26 AMA, the DEA, the FSMB, the ~~[national practitioner data bank]~~ NPDB, and other sources as may be deemed
27 appropriate by the board~~;~~. The board shall require fingerprints and, in its discretion, a state and national
28 background check.
29 (7) ~~applicants who are not U.S. citizens must provide proof that they are in compliance with~~
30 ~~the immigration laws of the United States.~~

31 **C. Expedited licensure process:**

32 (1) Upon receipt of a completed application, required fees, and verification of licensure in all
33 states or territories where the applicant actively holds a license to practice medicine, the board shall issue an
34 expedited license to a qualified applicant within 30 days from the date the completed application was received
35 unless the board may have other cause to deny the application pursuant to Section 61-6-15 NMSA 1978.

36 **D. Expedited license expiration:** Expedited licenses shall be valid for no more than 12 months from
37 the date of issuance.

38 **E. Procedure for incomplete application.** If an incomplete application for an expedited license is
39 received, the board shall notify the applicant in writing within thirty (30) days from the date the incomplete
40 application was received by the board. The written notification shall include how the application is incomplete and
41 what is needed to complete the application; this written notification shall be titled "notice to cure." After receipt of
42 the notice to cure, the applicant must submit a completed application within thirty (30) days of the receipt of the
43 notice to cure. An extension may be granted, at the board's discretion and based on good cause, for submission
44 beyond thirty (30) days after receipt of the notice to cure.
45 ~~[following the date of issue.]~~ [16.10.2.10 NMAC - N, 1/20/03; A, 7/1/2003; A, 4/3/05; A, 10/7/05; A, 7/1/06; A,
46 1/10/07; A, 10/11/13; A, 01/15/14; A, 7/12/2022]

47
48 **16.10.2.11 TELEMEDICINE LICENSE:**

49 **A. Prerequisites for licensure:** Each applicant for a telemedicine license must be of good moral
50 character and hold a full and unrestricted license to practice medicine in another state or territory of the United
51 States.

52 **B. Required documentation:** Each applicant for a telemedicine license must submit the required
53 fees as specified in 16.10.9.8 NMAC and the ~~[following]~~ documentation~~;~~ required by 16.10.2.10 NMAC for an

1 expedited license. An applicant for a telemedicine license shall be subject to the same provisions as an applicant
2 seeking an expedited license.

3 (1) A complete and signed application, with a passport quality photo taken within six
4 months.

5 Applications are valid for one year from the date of receipt.

6 (2) Verification of licensure in all states where the applicant holds or has held a license to
7 practice medicine, or other health care profession. Verification must be received directly from the other state(s)
8 board, and must attest to the status, issue date, license number, and other information requested and contained on the
9 form.

10 (3) Applicants who have had any previous disciplinary or other action against them may be
11 required to meet with the entire board. The board may, in its discretion, issue a license to practice medicine across
12 state lines if it finds that the previous disciplinary or other action does not indicate that the physician is a potential
13 threat to the public.

14 C. **Licensure process:** Upon receipt of a completed application, including all required
15 documentation and fees, board staff will request and review an AMA physician profile and FSMB board action
16 databank search. When the application is complete, a member or agent of the board will review and may approve the
17 application. A personal interview is not required unless there is a discrepancy in the application that cannot be
18 resolved.

19 D. **Initial license expiration:** Telemedicine licenses shall be renewed on July 1 following the date of
20 issue. Initial licenses are valid for a period of not more than thirteen months or less than one month.

21 E. **Exemption from licensure requirements[3]** are defined in Section 61-6-17 NMSA of the
22 Medical Practice Act and include a physician licensed to practice under the laws of another state who acts as a
23 consultant to a New Mexico licensed physician on an irregular or infrequent basis not to exceed ten patients per
24 year.

25 [16.10.2.11 NMAC - Rp 16 NMAC 10.2.13, 4/18/2002; 16.10.2.11 NMAC - Rn & A, 16.10.2.10 NMAC;
26 1/20/2003; A, 4/3/2005; A, 7/1/2006; A, 1/3/2008; A, 10/11/2013]

27
28 **16.10.2.12 POSTGRADUATE TRAINING LICENSE:** A postgraduate training license is required for all
29 interns, residents, and fellows enrolled in board approved training programs within the state. Individuals enrolled in
30 board approved training programs outside of New Mexico may apply for a postgraduate training license as a
31 prerequisite to obtaining a New Mexico public service license.

32 A. **Prerequisites for licensure:** Each applicant for a postgraduate training license must possess the
33 following qualifications:

34 (1) graduated from a board approved school or completed a program determined by the
35 board to be substantially equivalent to a U.S. medical school or college of osteopathic medicine;

36 (2) passed part I of the United States medical licensing examination (USMLE) or the
37 comprehensive osteopathic medical licensing examination (COMLEX); and

38 (3) be of good moral character.

39 B. **Required documentation:** Each applicant shall submit the required fee as specified in 16.10.9.8
40 NMAC and complete the board-approved application.

41 (1) Applicants enrolled at the university of New Mexico health science center must submit
42 an application through the office of graduate medical education for review before it is forwarded to the board for
43 review and approval.

44 (2) Applicants enrolled at a board-approved training program outside New Mexico must
45 submit the postgraduate training license application directly to the board.

46 (3) A copy of the official examination results must be attached to each application.

47 C. **Licensure process:** Upon receipt of a complete and signed application and fee, a member or
48 agent of the board will review the application and may approve the license. The applicant may be scheduled for a
49 personal interview before the board, a board member designated by the board, or an agent of the board and must
50 present original documents as requested by the board

51 D. **License expiration:** Postgraduate training licenses are valid for no longer than one year, but may
52 be renewed for a period not to exceed eight years or completion of the residency, whichever is shorter, and as long

as the license holder is enrolled in a board approved training program. Postgraduate training licenses may be renewed prior to expiration.
[16.10.2.12 NMAC - Rp, 16 NMAC 10.2.14, 4/18/2002; 16.10.2.12 NMAC - Rn, 16.10.2.11 NMAC, 1/20/2003; A, 10/7/2005; A, 7/1/2006; A, 1/3/2008; A, 10/11/2013; A, 7/12/2022]

16.10.2.13 PUBLIC SERVICE LICENSE: A resident physician may apply for a public service license, which enables him to practice medicine outside the training program. The resident physician must be continuing in the board approved training program.

A. **Prerequisites for licensure:** Each applicant for a public service license shall have graduated from a board approved school, passed all required examinations as defined in 16.10.3 NMAC, and completed one year of postgraduate training. In addition, the applicant shall have completed an application for licensure including all required documentation required in Subsection B through Subsection E of 16.10.2.9 NMAC, as applicable. Other requirements include:

- (1) written approval from his training program director;
- (2) a postgraduate training license issued by the New Mexico medical board;
- (3) a resident physician with one-year postdoctoral training may only apply for a public service license when he is under the direct supervision of a New Mexico physician or when employed in a medically underserved area; and
- (4) if a physician is not being supervised directly, there must be procedures in place for a licensed New Mexico physician to review, on at least a quarterly basis, prescriptions written and dispensed for controlled substances and operative procedures performed.

B. **Required documentation:** Each applicant for a public service license shall submit the required fee as specified in 16.10.9.8 NMAC and the following documentation:

- (1) a complete and signed application, with a passport quality photo taken within the previous six months; applications are valid for one year from the date of receipt;
- (2) letter of approval from the training program director.

C. **Licensure process:** Upon receipt of a completed application, including all required documentation and fees, the applicant may be scheduled for a personal interview before the board, a board member designated by the board, or an agent of the board and must present original documents as requested by the board. The initial license will be issued following completion of any required interview, or approval by a member or agent of the board.

D. **License expiration:** Public service licenses shall be renewed annually on September 1 as long as the applicant remains eligible.
[16.10.2.13 NMAC - Rp, 16 NMAC 10.3.9, 4/18/2002; 16.10.2.13 NMAC - Rn & A, 16.10.2.12 NMAC, 1/20/2003; A, 7/1/2003; A, 4/3/2005; A, 7/1/2006; A, 10/11/2013; A, 7/12/2022]

16.10.2.14 TEMPORARY TEACHING, RESEARCH, AND SPECIALIZED DIAGNOSTIC AND TREATMENT LICENSES: The board may issue a temporary license to physicians licensed in other states or jurisdictions for the purpose of teaching, conducting research, performing specialized diagnostic and treatment procedures, implementing new technology, or for physician educational purposes in New Mexico on a temporary basis under the supervision of a New Mexico licensed physician. ~~[The following provisions apply:]~~

A. **Prerequisites for licensure:** The applicant must:

- (1) be otherwise qualified to practice medicine in New Mexico;
- (2) hold an unrestricted license in another state or country;
- (3) submit the name of the sponsoring or associating physician(s), who must be actively licensed in New Mexico.

B. **Required documentation:**

- (1) specific program or protocol of work planned;
- (2) address of sponsoring institution or organization where the work will be performed;
- (3) an affidavit from the sponsoring physician attesting to the qualifications of the applicant and the purpose of the functions or medical procedures the applicant will perform;
- (4) verification of licensure in state or jurisdiction where physician is practicing; and
- (5) a license fee as set forth in 16.10.9 NMAC.

C. **Licensure process:** Upon receipt of a completed signed application, including all required documentation and fees, board staff will request and review an AMA physician profile and FSMB board action databank search. When the application is complete, a member or agent of the board will review and may approve the application. A personal interview is not required unless there is a discrepancy in the application that cannot be resolved or if there are any actions or restrictions on any license held in another state or jurisdiction.

D. The applicant may perform only those functions listed in the application. The supervising physician must notify the board and obtain approval prior to any change in the activities of the temporary license holder.

E. The duration of a temporary teaching, research, or specialized diagnostic and treatment license shall not exceed three months, provided however that the license may be renewed up to three times upon payment of appropriate fees and written justification for the plan remaining in effect. After the third renewal of a temporary license, the physician shall re-apply under the provisions of this rule.

[16.10.2.14 NMAC - Rp, 16 NMAC 10.3.8, 4/18/2002; 16.10.2.14 NMAC - Rn, 16.10.2.13 NMAC, 1/20/2003; A, 10/7/2005; A, 7/1/2006; A, 1/3/2008; A, 10/11/2013; A, 7/12/2022]

16.10.2.16 PROVISIONS FOR PHYSICIAN LICENSURE DURING A DECLARED DISASTER: The board will make accommodations for physicians who have been impacted by a major disaster. Based on the nature of the disaster, the extent of the damage, and the number of individuals and institutions that have been affected, the board may waive documentation requirements for any new or pending applications when the disaster delays or prohibits the procuring of the required documents. The board may also waive any required fees for applications submitted after the major disaster. The board will determine the length of time the emergency provisions will be in effect for each major disaster that results in applications for a federal emergency license.

A. **Federal emergency license by examination:** Physicians currently licensed in a state in which a major disaster has been declared may be issued a federal emergency license in New Mexico. The board may waive specific documentation required in Subsection B through E of 16.10.2.9 NMAC if the applicant is unable to obtain the documentation from individuals or institutions located in the disaster area. Nothing in this provision shall constitute a waiver of the requirements for licensure contained in Subsection A of 16.10.2.9 NMAC.

B. **Federal emergency license by expedited licensure:** Physicians currently licensed in a state in which a major disaster has been issued a federal emergency license in New Mexico. The board may waive specific requirements of Subsection B of 16.10.2.10 NMAC if the applicant is unable to obtain the documentation from individuals or institutions located in the disaster area. Nothing in this provision shall constitute a waiver of the requirements for licensure contained in Subsection A of 16.10.2.10 NMAC. The following requirements will apply to applicants under this provision:

- (1) a complete and signed application, is required, accompanied by proof of identity, which may include a copy of a driver's license, passport or other photo identification issued by a governmental entity;
- (2) the board will consider the required three years of practice experience to be met through any combination of postgraduate medical education and actual work experience;
- (3) the board may waive any requirements for recommendation forms or verification of work experience forms;
- (4) other required verification will be obtained online by board staff to include: current licensure status, national practitioners data bank (NPDB), federation of state medical board (FSMB) disciplinary database, American medical association or AOA records of education and postgraduate training, and the records of the American board of medical specialties or AOA-BOS to confirm board certification status.

C. **License expiration:** Initial federal emergency licenses shall be valid for not less than three months or more than fifteen months. Licenses shall be renewed on July 1 following the date of issue, pursuant to 16.10.7 NMAC. The board reserves the right to request additional documentation, including but not limited to recommendation forms and work experience verification forms prior to approving license renewal. At the time a federal emergency license is approved for renewal, it will be transferred to a full medical license. [16.10.2.16 NMAC - N/B, 9/22/2005; A, 12/30/2005; A, 7/1/2006; A, 7/12/2022]

1 **16.10.2.18 TEMPORARY LICENSURE EXEMPTION FOR OUT OF STATE SPORTS TEAM**
2 **PHYSICIAN:**

3 **A.** Physician who is licensed in good standing to practice medicine in another state, and who has
4 never been disciplined by the New Mexico medical board, may practice medicine without a license provided that:

- 5 (1) the physician has a written agreement with the out-of-state sports team governing body to
6 provide health care services to an out-of-state sports team athlete or staff member at a scheduled sporting event;
7 (2) the physician's practice is limited to medical care to assist injured and ill players and staff
8 and coordinate appropriate referral to in-state health care providers as needed;
9 (3) the healthcare services to be provided by the physician are within the scope of practice
10 authorized pursuant to the medical practice act and rules of the board; and
11 (4) the physician has professional liability coverage for the duration of the sporting event.

12 **B. Licensure exemption registration.** Physician registrants shall submit the following
13 documentation to the board:

- 14 (1) copy of the agreement with the out-of-state sports team governing body to provide health
15 care services to an out-of-state sports team athlete or staff member at a scheduled sporting event;
16 (2) proof of professional liability coverage for the duration of the sporting event; ~~and~~
17 (3) a signed affidavit that the physician will limit their medical practice in New Mexico to
18 care and assist injured or ill out-of-state team athletes or staff, and
19 (4) coordinate appropriate referral to in-state health care providers.

20 **C.** The physician will further attest that they will not provide care or consultation to a resident of
21 New Mexico and will not practice medicine in New Mexico, outside of the sporting event. [16.10.2.18 NMAC - N,
22 7/12/2022]
23
24

25 **16.10.2.20 CRIMINAL ARRESTS AND CONVICTIONS:**

26 **A.** Arrests: The Board shall not exclude from licensure a person who is otherwise qualified on the
27 sole basis that the person has been previously arrested for or convicted of a crime unless the person has a
28 disqualifying criminal conviction.

29 **B.** Convictions for any of the following misdemeanor or felony offenses, or their equivalents in any
30 other jurisdiction, are disqualifying criminal convictions that may disqualify an applicant from receiving or retaining
31 a license or certificate issued by the board:

- 32 ~~[A.]~~ (1) homicide;
33 ~~[B.]~~ (2) aggravated assault, aggravated battery, kidnapping, false imprisonment,
34 human trafficking, stalking, or other crimes of violence against persons;
35 ~~[C.]~~ (3) robbery, larceny, burglary, extortion, receiving stolen property,
36 possession of burglary tools, unlawful taking of a motor vehicle, or other crimes involving theft or appropriation of
37 personal property or funds;
38 ~~[D.]~~ (4) rape, criminal sexual penetration, criminal sexual contact, incest,
39 indecent exposure, child solicitation, or other crimes constituting sexual offenses;
40 ~~[E.]~~ (5) crimes against children; crimes involving child abuse or neglect; child
41 sexual exploitation, child pornography;
42 ~~[F.]~~ (6) driving under the influence of intoxicating liquor or drugs;
43 ~~[G.]~~ (7) trafficking controlled substances;
44 ~~[H.]~~ (8) fraud, forgery, money laundering, embezzlement, credit card fraud,
45 counterfeiting, financial exploitation, or other crimes of altering any instrument affecting the rights or obligations of
46 another;

- 47 ~~[I.]~~ (9) making a false statement under oath or in any official document;
48 ~~[J.]~~ (10) evasion of a lawful debt or obligation, including but not limited to tax obligations;

49 or

- 50 ~~[K.]~~ ~~[K.]~~ (11) an attempt, solicitation or conspiracy involving any of the felonies in this
51 subsection.

52 [16.10.2.20 NMAC - N, 7/12/2022; Rn & A 16.10.2.19 NMAC, 7/12/2022]
53

1 **HISTORY OF 16.10.2 NMAC:**
2 **Pre-NMAC History:** The material in this part was derived from that previously filed with State Records Center and
3 Archives under:
4 Rule 3, Licensure as a Medical Practitioner, filed 10/26/1994
5 Rule 3, Licensure as a Medical Practitioner, filed 06/21/1993
6 Rule 4, Temporary Licenses, filed 12/19/1989
7 NMBME Rule 88-1, Temporary Licenses, filed 05/31/1988
8
9 **History or Repealed Material:**
10 16 NMAC 10.2, Licensure as a Medical Practitioner - Repealed 4/18/2002.
11 16 NMAC 10.3, Interim and Temporary Licenses - Repealed 4/18/2002.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING

CHAPTER ~~24~~ 10 ~~[PODIATRISTS]~~ MEDICINE AND SURGERY PRACTITIONERS 16.10.18

NMAC - Rp, 16.21.1 NMAC --/--/----

PART 4] GENERAL PROVISIONS

~~16.21.1.1]~~ **ISSUING AGENCY:** ~~[Regulation and Licensing Department, Board of Podiatry]~~ New Mexico Medical Board hereafter called the board, with the recommendations of the podiatry advisory committee, hereafter called the committee.

16.21.1.1 NMAC - Rp, 16.21.1.1 NMAC 5/3/2019; 16.10.18 NMAC - Rp, 16.21.1.1 NMAC --/--/----

~~16.21.1.2]~~ **SCOPE:** The provisions in ~~16.21.1.2 NMAC]~~ apply to all parts of Chapter ~~24]~~ and provide information for applicants, licensed ~~[podiatrists]~~ podiatric physician, board members, and members of the public.

16.21.1.2 NMAC - Rp, 16.21.1.2 NMAC 5/3/2019; 16.10.18.2 NMAC - Rp, 16.21.1.2 NMAC --/--/----

~~16.21.1.3]~~ **STATUTORY AUTHORITY:** Podiatry Act, Section 61-8-6 NMSA and the Medical Practice Act, Sections 61-6-1 through 61-6-35 NMSA 1978.

16.21.1.3 NMAC - Rp, 16.21.1.3 NMAC 5/3/2019; 16.10.18.3 NMAC - Rp, 16.21.1.3 NMAC --/--/----

~~16.21.1.4]~~ **DURATION:** Permanent.

16.21.1.4 NMAC - Rp, 16.21.1.4 NMAC 5/3/2019; 16.10.18.4 NMAC - Rp, 16.21.1.4 NMAC --/--/----

~~16.21.1.5]~~ **EFFECTIVE DATE:** ~~[May 3, 2019]~~ --/--/----, unless a later date is cited at the end of a section.

16.21.1.5 NMAC - Rp, 16.21.1.5 NMAC 5/3/2019; 16.10.18.5 NMAC -Rp, 16.21.1.5 NMAC --/--/----

~~16.21.1.6]~~ **OBJECTIVE:** This part provides general provisions for the practice of podiatry, licensee responsibility, and requirements for the conduct of board business.

16.21.1.6 NMAC - Rp, 16.21.1.6 NMAC 5/3/2019; 16.10.18.6 NMAC Rp, 16.21.1.6 NMAC --/--/----

~~16.21.1.7]~~ DEFINITIONS:

A. "APMLE" means American podiatric medical licensing examination.

B. "Board" ~~[means board of podiatry]~~ means the New Mexico medical board.

C. "Committee" means podiatry advisory committee

~~[C.]D.~~ "CPME" means the council on podiatric medical education.~~[D.]E.~~ "NBPME" means the national board of podiatric medical examiners.]

F. "Practice of podiatry": means engaging in that primary health care profession, the members of which examine, diagnose, treat and prevent by medical, surgical and biomechanical means ailments affecting the human foot and ankle and the structures governing their functions, but does not include amputation of the foot or the personal administration of a general anesthetic.

G. "Podiatric physician" is defined as a physician, pursuant to the laws of this state, and defined as a physician and surgeon within the scope of the podiatric physician license.

H. "Foot and ankle radiation technologist" means a person who takes x-rays of the foot and ankle under the supervision of a podiatric physician.

16.21.1.7 NMAC - Rp, 16.21.1.7 NMAC 5/3/2019; 16.10.18.7 NMAC Rp, 16.21.1.7 NMAC --/--/----

~~16.21.1.8]~~ SCOPE OF PRACTICE:

A. For the purpose of clarification of the Podiatry Act, Subsection C of Section 61-8-2 NMSA 1978, the practice of podiatry:

(1) in regard to surgical treatment shall include the skin and subcutaneous tissues of the thigh and all structures distal to the knee.

(2) does include amputation of any portion of the foot;

(3) does allow the use of the services of a certified registered nurse anesthetist; and

(4) a licensed podiatrist may assist a licensed medical or osteopathic physician in the performance of any surgery of the lower extremities.

B. A podiatric physician shall be recognized and permitted to supervise and administer hyperbaric oxygen following the published recommendations of the undersea and hyperbaric medical society, inc. "UHMS"

and within the credentials and bylaws of the facility that operates the hyperbaric unit with the following stipulation; prior to administering hyperbaric oxygen, a podiatric physician must have on file with the ~~[New Mexico board of podiatry]~~ board, documentation certifying compliance with the above requirements.
[16.21.1.8 NMAC - Rp, 16.21.1.8 NMAC 5/3/2019; 16.10.18.8 NMAC - Rp, 16.21.1.8 NMAC --/--/----]

~~[16.21.1.9]~~ **LICENSE DISPLAY:** A valid license must be displayed and must be visible to the public in each place of business.
[16.21.1.9 NMAC - Rp, 16.21.1.9 NMAC 5/3/2019; 16.10.18.9 NMAC - Rp, 16.21.1.9 NMAC --/--/----]

~~[16.21.1.10]~~ **RESPONSIBILITY OF LICENSEE:** It is the responsibility of the licensed podiatrist to keep the board informed of a current mailing and email address within 30 days of changes. All correspondence, including renewal forms, will be mailed or emailed to the last address on file. The board assumes no responsibility for renewal applications or other correspondence not received because of a change of mailing address or email address.
[16.21.1.10 NMAC - Rp, 16.21.1.10 NMAC 5/3/2019; 16.10.18.10 NMAC - Rp, 16.21.1.10 NMAC --/--/----]

~~[16.21.1.11]~~ **SEVERABILITY:** The provisions of these regulations are severable. If any parts of these regulations are held invalid, the remaining provisions shall remain in force and effect.
[16.21.1.11 NMAC - Rp, 16.21.1.11 NMAC 5/3/2019; 16.10.18.11 NMAC - Rp, 16.21.1.11 NMAC --/--/----]

COMMITTEE ORGANIZATION, POWERS AND DUTIES

~~A.~~ The committee shall consist of three members, one member who shall be the executive director of the New Mexico podiatric medical association serving as an ex-officio member and two members who shall be podiatric physicians licensed to practice in New Mexico who have been actively engaged in the practice of podiatry for at least three consecutive years immediately prior to their appointments.

~~B.~~ Members of the committee shall be appointed by the board from a list of names submitted to the board by the New Mexico podiatric medical association or its authorized governing body or council. The list shall be submitted to the board within thirty days of a vacancy and shall contain at least three qualified podiatric physicians for each member appointed. Member vacancies shall be filled in the same manner. Committee members shall serve until their successors have been appointed and qualified.

~~C.~~ The Committee shall hold meetings in a frequency necessary to conduct business and shall meet at the request of the board. Meetings of the committee shall be subject to the Open Meetings Acts.

~~D.~~ The board, with the advice of the committee, shall administer and enforce the provisions of the podiatry act.
[16.10.18.12 NMAC -Rp, 16.21.1.12 NMAC --/--/----

~~[16.21.1.12]~~ **TELEPHONIC ATTENDANCE BY COMMITTEE MEMBERS:**

~~A.~~ Pursuant to the provisions of the Open Meetings Act, Subsection C of Section 10-15-1 NMSA 1978, [board] committee members may participate in a board meeting by means of a conference telephone or similar communications equipment, and participation by such means shall constitute presence in person at the meeting. Such participation by telephone may only occur when it is difficult or impossible for the member to attend in person.

~~B.~~ Each [board] committee member participating by conference telephone must be identified when speaking and all participants must be able to hear each other at the same time, and members of the public attending the meeting must be able to hear any member of the public, committee or board members participating by phone.
[16.21.1.12 NMAC - Rp, 16.21.1.12 NMAC 5/3/2019; 16.10.18.13 NMAC - Rp, 16.21.1.12 NMAC --/--/----]

~~[16.21.1.13]~~ **CONDUCT OF BOARD BUSINESS:**

~~A.~~ **Officers.** The board shall elect a chairperson, vice chair, and secretary at the first regularly scheduled meeting in each calendar year.

~~B.~~ **Excused absences.** A board member may be excused from a board meeting at the discretion of the board chairperson. The member shall notify the board chairperson and board administrator prior to meeting with an explanation of why they will be unable to attend. All other unattended meetings will be unexcused absences. After three consecutive unexcused absences, the member shall be recommended for removal as a board member pursuant to the Podiatry Act, Subsection D of Section 61-8-5 NMSA 1978.

~~C.~~ **Quorum.** Three board members shall constitute a quorum.

~~D.~~ **Notice of meetings.** Regular meetings, special meetings and emergency meetings shall be noticed in accordance with the provisions of the board's open meetings resolution.

~~[16.21.1.13 NMAC - Rp, 16.21.1.13 NMAC 5/3/2019]~~

~~[16.21.1.14]~~ ADVERTISING GUIDELINES:

A. All advertisements shall include the podiatrist's name or medical group name, address and telephone number consistent with the Health Care Advertising Act, Section 57-27-1 NMSA 1978.

B. Specialty practice: A podiatrist may only advertise a specialty practice if they qualify under one of the following provisions:

(1) the licensee is board certified or board eligible by a recognized certifying board; if an abbreviation of the certifying board is used then the name of the certifying board must be included in the advertisement;

(2) the licensee is a fellow or an associate of a specialty organization which admits fellows and associates on the basis of an examination; if an abbreviation of the certifying board is used then the name of the certifying board must be included in the advertisement.

~~[16.21.1.16 NMAC - Rp, 16.21.1.14 NMAC 5/3/2019; 16.10.18.14 NMAC Rn, 16.21.1.14 NMAC]~~

16.21.1.15 [RESERVED]

16.21.1.16 [RESERVED]

HISTORY of 16.21.1 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:

Rule I, Conduct of Board Business, filed 7/21/1980;

Rule IX, Scope of Practice, filed 7/21/1980;

Rule XI, Advertising by Licensees, filed 7/21/1980;

Rule XII, Inspection of Board Records, filed 11/29/1990;

Rule XIV, Severability, filed 11/29/1990.

History of Repealed Material: Rule I, Conduct of Board Business (filed 7/21/1980); Rule IX, Scope of Practice (filed 7/21/1980); Rule XI, Advertising by Licensees (filed 7/21/1980); Rule XII, Inspection of Board Records (filed 11/29/1990); and Rule XIV, Severability, (filed 11/29/1990), repealed 10/15/2004.

16.21.1 NMAC, Podiatrists - General Provisions filed 9/15/2004, Repealed effective 5/3/2019.

Other History:

Rule I, Conduct of Board Business (filed 7/21/1980); Rule IX, Scope of Practice (filed 7/21/1980); Rule XI, Advertising by Licensees (filed 7/21/1980); Rule XII, Inspection of Board Records (filed 11/29/1990); and Rule XIV, Severability, (filed 11/29/1990) all replaced by 16.21.1 NMAC, effective 10/15/2004.

16.21.1 NMAC, Podiatrists - General Provisions filed 9/15/2004 was replaced by 16.21.1 NMAC, Podiatrists - General Provisions effective 5/3/2019.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER ~~[24]~~10 ~~[PODIATRISTS]~~ MEDICINE AND SURGERY PRACTITIONERS
PART [2] FEES
16.10.2 NMAC - Rp, 16.21.2 NMAC

~~[16.21.2.1]~~ **ISSUING AGENCY:** ~~[Regulation and Licensing Department, NM Board of Podiatry].~~ New Mexico Medical Board hereafter called the board, with the recommendations of the podiatry advisory committee, hereafter called the committee.

[16.21.2.1 NMAC - N, 10-15-04, 16.10.2.1 NMAC - Rp, 16.21.2.1 NMAC]

~~[16.21]~~ **SCOPE:** ~~[All applicants for licensure, licensees and members of the public.]~~ apply to all parts of Chapter 10 and provide information for applicants, licensed podiatric physician and members of the public.

[16.21.2.2 NMAC - N, 10-15-04; 16.10.2.2 NMAC - Rp, 16.21.2.2 NMAC --/--/----

~~[16.21.2.3]~~ **STATUTORY AUTHORITY:** ~~[This rule is promulgated pursuant to Section 61-8-10 NMSA 1978, Podiatry Act, Section 61-8-10 NMSA and the Medical Practice Act, Sections 61-6-1 through 61-6-35 NMSA 1978.]~~

[16.21.2.3 NMAC - N, 10-15-04, 16.10.2.3 NMAC - Rp, 16.21.2.3 NMAC]

~~[16.21.2.4]~~ **DURATION:** Permanent.

[16.21.2.4 NMAC - N, 10-15-04; 16.10.2.4 NMAC - Rn, 16.21.2.4 NMAC]

~~[16.21.2.5]~~ **EFFECTIVE DATE:** ~~[October 15, 2004]~~ --/--/---- unless a later date is cited at the end of a section.

[16.21.2.5 NMAC - N, 10-15-04, 16.10.2.4 NMAC - Rp, 16.21.2.4 NMAC]

~~[16.21.2.6]~~ **OBJECTIVE:** To establish fees to fund the cost of board operation.

[16.21.2.6 NMAC - N, 10-15-04, 16.10.2.6 NMAC - Rp, 16.21.2.6 NMAC]

~~[16.21.2.7]~~ **DEFINITIONS:** ~~[RESERVED; 16.10.2.7 NMAC - Rp, 16.21.2.7 NMAC]~~

~~[16.21.2.8]~~ **FEES:**

- A. Application fee for licensure by examination is \$400.00.
- B. Application fee for licensure by reciprocity is \$600.00.
- C. Duplicate license fee is \$25.00.
- D. Temporary license fee is \$100.00.
- E. ~~[Annual]~~ Bi-annual renewal fee is ~~[\$300.00]~~ \$600.00.
- F. Late fee for license renewal applications that are received but not complete, or not received or postmarked by December 31, is \$50 per month for each month or part thereof.
- G. Reinstatement fee is \$200.00 for the first twelve months of delinquency and \$500.00 for a license that has lapsed more than one year but not more than three years.
- 11. Application for foot and ankle radiation technologists initial license fee in an amount not to exceed \$250.

- 1. Renewal fee not to exceed \$100 per year.

~~[H.]I.~~ Fees for requests for copies of public records will be charged reasonable administrative fees.

[16.21.2.8 NMAC - N, 10-15-04; A, 7-15-07; 16.10.2.8 NMAC - Rp, 16.21.2.8 NMAC]

HISTORY of 16.21.2 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:

- Rule II, Initial Application For License, filed 7-21-80;
- Rule II, Initial Application For License, filed 8-18-89;
- Rule II, Initial Application For License, filed 11-29-90
- Rule II, Initial Application For License, filed 12-10-90;
- Rule III, Licensure By Reciprocity, filed 7-21-80;
- Rule III, Licensure By Reciprocity, filed 8-18-89;

Rule IV, Temporary Licenses, filed 7-21-80;
Rule IV, Temporary License, filed 10-6-87;
Rule IV, Temporary License, filed 8-18-89;
Rule IV, Temporary License, filed 11-29-90;
Rule VI, Renewal Of License, filed 7-21-80;
Rule VI, Renewal Of License, filed 8-18-89.
Rule XIII, Duplicate/Replacement License, filed 11-29-90.

History of the Repealed Material:

16 NMAC 21.3, Podiatry - Application For License By Examination (filed 6-17-1996);
16 NMAC 21.4, Podiatry - Application For License By Reciprocity (filed 6-17-1996);
16 NMAC 21.5, Podiatry - Application For Temporary License (filed 6-17-1996) - repealed 10-15-2004.

Other History:

Those applicable portions of Rule VI, Renewal Of License (filed 8-18-89); 16 NMAC 21.3, Podiatry - Application For License By Examination (filed 6-17-1996); 16 NMAC 21.4, Podiatry - Application For License By Reciprocity (filed 6-17-1996); 16 NMAC 21.5, Podiatry - Application For Temporary License (filed 6-17-1996) replaced by 16.21.2 NMAC, Fees, effective 10-15-2004.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER [24]10 [PODIATRISTS] MEDICINE AND SURGERY PRACTITIONERS
PART [LICENSE BY EXAM] LICENSURE BY EXAMINATION, EXPEDITED
RECIPROCITY, EXPEDITED LICENSURE MILITARY SERVICE MEMBERS AND VETERANS,
TEMPORARY LICENSURE, AND EMERGENCY LICENSURE

[16.21.3.1] ISSUING AGENCY: ~~[Regulation and Licensing Department, Board of Podiatry:]~~ New Mexico Medical Board hereafter called the board, with the recommendations of the podiatry advisory committee, hereafter called the committee.

[16.21.3.1 NMAC - Rp, 16.21.3.1 NMAC 5/3/2019; 16.10.3.1 NMAC – Rp, 16.21.3.1 NMAC --/--/----

[16.21.3.2] SCOPE: ~~Applicants for licensure [as a podiatrist by examination]~~ as a podiatric physician.

[16.21.3.2 NMAC - Rp, 16.21.3.2 NMAC 5/3/2019; 16.10.3.2 NMAC – Rp, 16.21.3.2 NMAC --/--/----

[16.21.3.3] STATUTORY AUTHORITY: ~~[Podiatry Act, Paragraph (10) of Subsection E of Section 61-8-6 and 61-8-8 NMSA 1978.]~~ Podiatry Act, Section 61-8-6 through 61-8-9, and 61-8-14, NMSA and the Medical Practice Act, Sections 61-6-1 through 61-6-35 NMSA 197

[16.21.3.3 NMAC - Rp, 16.21.3.3 NMAC 5/3/2019; 16.10.3.3 NMAC – Rp, 16.21.3.3 NMAC --/--/----

[16.21.3.4] DURATION: Permanent.

[16.21.3.4 NMAC - Rp, 16.21.3.4 NMAC 5/3/2019; 16.10.3.4 NMAC – Rp, 16.21.3.4 NMAC --/--/----

[16.21.3.5] EFFECTIVE DATE: ~~[May 3, 2019]~~ --/--/----, unless a later date is cited at the end of a section.

[16.21.3.5 NMAC - Rp, 16.21.3.5 NMAC 5/3/2019; 16.10.3.5 NMAC – Rp, 16.21.3.5 NMAC --/--/----

[16.21.3.6] OBJECTIVE: This part lists the requirements and documentation, which must be submitted to the board to obtain licensure as a [podiatrist by examination] podiatric physician.

[16.21.3.6 NMAC - Rp, 16.21.3.6 NMAC 5/3/2019; 16.10.3.6 NMAC – Rp, 16.21.3.6 NMAC --/--/----

[16.21.3.7] DEFINITIONS: ~~["Jurisprudence exam" means an examination concerning the laws and rules of the New Mexico board of podiatry.]~~

A. "APMLE" means American podiatric medical licensing examination.

B. "Background findings" the board may deny, or otherwise limit a license if it is determined the applicant hold or has held a license in another jurisdiction that is not in good standing, if proceedings are pending against the applicant in another jurisdiction, or information is received indicating the applicant is of danger to patients or is guilty of violating any of the provisions of the Podiatric Act, the Uniform Licensing Act, Impaired Health Care Providers Act. The results of the background check must either indicate no negative findings, or if there are negative findings, those findings will be considered by the board. The board may formally accept the approval of the application at the next scheduled meeting.

C. "Complaint/review committee" means a committee established by the board to review all complaints and applicants with background findings and to report to the board at its next scheduled meeting.

D. "CPME" means the council on podiatric medical education.

E. "Eligible jurisdiction" means:

(1) any state or territory of the United States except those included in the list of disapproved licensing jurisdictions in of 16.21.4.8 NMAC; and

(2) any foreign country included in 16.21.4.9 NMAC.

F. "Emergency" for purposes of this rule means any sudden or unforeseen situation that requires immediate action. The sudden onset of physical or mental illness, injury, impairment, or other incapacitating condition by a New Mexico licensed podiatrist is considered an emergency.

G. "Expedited license by reciprocity" means a provisional license that confers the same rights, privileges and responsibilities as a regular license issued by the board.

H. "Fellowship" the period of medical training a podiatrist may undertake after completing residency.

I. "Good standing" means a license or registration is active and not expired, suspended, revoked, surrendered, conditioned, or otherwise in a status that in any manner restricts the activity of a licensee or registrant under the authority of the license.

J. "Jurisprudence exam" means an examination concerning the laws and rules of the New Mexico medical-board and the Podiatry Act.

K. "Jurisdiction" has the same meaning as defined in Subsection F of Section 61-1-2 NMSA 1978.

L. "Military service member" has the same meaning as defined in Paragraph (2) of Subsection E of Section 61-1-34 NMSA 1978.

M. "NBPME" means the national board of podiatric medical examiners.

N. "Preceptorship" a period of practical experience and training for a podiatric medical school or college that is not defined as a residency program approved by the council podiatric medical education (CPME) and supervised by a New Mexico licensed podiatric physician.

O. "Qualified applicant" means an applicant who:

(1) holds a current license in good standing in another jurisdiction, provided that an applicant who is not a military service member or veteran must hold a current license in good standing in an eligible jurisdiction.

(2) does not have a disqualifying criminal conviction, as defined in the board's rules; and

(3) is not subject to pending disciplinary action in New Mexico.

P. "Veteran" has the same meaning as defined in Paragraph (3) of Subsection E of 61-1-34 NMSA 1978.

[16.21.3.7 NMAC – Rp, 16.21.3.7 NMAC 5/3/2019; 16.10.3.7 NMAC – Rp, 16.21.3.7 NMAC --/--/----]

~~[16.21.3.8]~~ **REQUIREMENTS FOR [LICENSE] ALL LICENSEES:** ~~[Each applicant for a license as a podiatrist must possess the following qualifications:]~~ Each applicant for licensure as a podiatric physician shall furnish evidence satisfactory to the board that the applicant:

~~[~~ **A.** graduated and been awarded a doctor of podiatric medicine degree from an accredited college of podiatric medicine as defined in the Podiatry Act, Paragraph (3) of Subsection A of Section 61-8-8 NMSA 1978;

~~]~~ **B.** passed the NBPME examinations part 1, 2, and 3;

~~]~~ **C.** every applicant prior to 2015 shall have completed at minimum one year of residency approved by the CPME and after 2015 completion of three year residency approved by the CPME; and

~~]~~ **D.** passed the New Mexico jurisprudence examination with a score of ninety percent or higher.]

A. has reached the age of maturity.

B. has graduated and been awarded a doctor of podiatric medicine degree from a college of podiatric medicine accredited by the American podiatric medical association council on podiatric medical education; and

C. has completed, at a minimum, a one-year residency program at a hospital accredited by the American podiatric medical association council on education.

D. has completed an application under oath on forms supplied by the board with a signature and a passport quality photo taken within the past six months; applications are valid for one year from the date of receipt shall pay the required fees.

E. The board may designate a professional background information service, which compiles background information regarding an applicant from multiple sources. Each applicant for a license by examination must submit the required fees and following documentation:

[16.21.3.8 NMAC - Rp, 16.21.3.8 NMAC 5/3/2019; 16.10.3.8 NMAC – Rp, 16.21.3.8 NMAC --/--/----]

LICENSURE BY EXAMINATION: An applicant for licensure by examination shall submit evidence to the board that the applicant has passed the examinations administered by the national board of podiatry medical examiners for students graduating from colleges of podiatry and shall furnish the board an official transcript and take clinical and written examinations as the board deems necessary. The examinations shall be in English and the subjects covered by the examinations shall be determined by the board and taken from subjects taught in accredited colleges of podiatric medicine. No applicant for licensure by examination shall be licensed who has not received a passing score on all board-approved examinations.

16.10.3.9 NMAC – N, --/--/----

~~[16.21.3.9]~~ **[DOCUMENTATION REQUIREMENTS:** ~~The board may designate a professional background information service, which compiles background information regarding an applicant from multiple sources. Each applicant for a license by examination must submit the required fees and following documentation:~~

- ~~A. completed application, with signature and a passport quality photo taken within the past six months; applications are valid for one year from the date of receipt;~~
- ~~B. official transcripts from the school of podiatric medicine or college, to be sent directly to the board office from the accredited program;~~
- ~~C. certificate or letter from residency director verifying completion of residency program approved by the CPME; after completion of 10 months of residency applicants may submit a letter from residency director indicating good standing of applicant and anticipated completion of full 36 month residency program.~~
- ~~D. proof that the applicant has passed the NBPME examinations sent directly from the NBPME;~~
- ~~E. verification of licensure in all states where the applicant holds or has held a license to practice podiatry, or other health care profession; verification from the other state(s) may be received via US mail, electronically or facsimile, and must attest to the status, issue date, license number, and other information contained in the form; and~~
- ~~F. electronic signatures will be acceptable for applications submitted pursuant to Section 14-16-1 through Section 14-16-19 NMSA 1978]~~

DOCUMENTATION REQUIREMENTS:

- A. official transcripts from the school of podiatric medicine or college, to be sent directly to the board office from the accredited program;
 - B. certificate or letter from residency director verifying completion of residency program approved by the CPME and has completed, at a minimum, a one-year residency program at a hospital accredited by the American podiatric medical association council on education residency program.
 - C. proof that the applicant has passed the NBPME examinations sent directly from the NBPME;
 - D. verification of licensure in all states where the applicant holds or has held a license to practice podiatry, or other health care profession; verification from the other state(s) must be received electronically, and must attest to the status, issue date, license number, and other information contained in the form; and
 - F. electronic signatures will be acceptable for applications submitted pursuant to Section 14-16-1 through Section 14-16-19 NMSA 1978.
- [16.21.3.9 NMAC - Rp, 16.21.3.9 NMAC 5/3/2019; 16.10.3.10 NMAC - Rp, and Rn, 16.21.3.9 NMAC]

EXPEDITED LICENSURE BY RECIPROCITY:

- A. A candidate for expedited licensure by reciprocity under Section 61-1-31.1 NMSA 1978 of the Uniform Licensing Act must submit to the board a complete application containing all the following:
 - (1) proof of current licensure in an eligible jurisdiction as defined in these rules;
 - (2) certificate of good standing for the license held by the applicant in an eligible jurisdiction;
 - (3) official transcripts from the school of podiatric medicine or college, to be sent directly to the board office from the accredited program;
 - (4) certificate or letter from residence director verifying completion of residence program approved by the CPME;
 - (5) proof of active practice for the three consecutive years immediately preceding the date of application (such proof may include a letter from an accountant, the professional society, tax forms, or other documentation approved by the board);
 - 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 of the materials required by 16.10.3.11 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 disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-8-11 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.
- [16.10.3.11 NMAC - N, --/--/---]

LIST OF DISAPPROVED LICENSING JURISDICTIONS; REASONS. Applicants licensed in the following states and territories of the United States shall not be eligible for expedited licensure by reciprocity under Section 61-8-9 NMSA 1978 of the Podiatry Act:

- A. American Samoa, on the grounds that the board cannot determine the education or examination requirements in this jurisdiction;
- B. Guam, on the grounds that this jurisdiction does not require licensees to pass any examination;
- C. Kentucky and Pennsylvania, on the grounds that these jurisdictions do not require licensees to complete a residency program;
- D. Minnesota, New Jersey, and Puerto Rico, on the grounds that these jurisdictions do not require licensees to pass Part III of the NBPME AMPLE exam considered by New Mexico to be an integral portion of the national examinations to determine competency to practice podiatry;
- E. Montana, North Carolina and North Dakota, on the grounds that the boards cannot determine sufficiency of residency requirements in these jurisdictions; and
- F. Virgin Islands, on the grounds that the board cannot determine the examination requirements in this jurisdiction.

[16.10.4.12 NMAC N, --/--/---]

LIST OF APPROVED FOREIGN JURISDICTIONS. Applicants licensed in the following foreign countries outside of the United States may be eligible for expedited licensure under Section 61-8-9 NMSA 1978 of the Podiatry Act:

- A. Spain; and
- B. Canada.

[16.10.3.13 NMAC N, --/--/---]

EXPEDITED LICENSURE APPLICATION FOR MILITARY SERVICE MEMBERS AND VETERANS:

- A. A candidate for expedited licensure by reciprocity under Section 61-1-34 NMSA 1978 must submit to the board a complete application containing all of the following:
 - (1) a completed and signed application form;
 - (2) proof of current license in another jurisdiction;
 - (3) certificate of good standing for the license held by the applicant in another jurisdiction, including a branch of the United States armed forces;
 - (4) submission of the following documentation:
 - (a) for military service member: a 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 DD 214 and copy of marriage license;
 - (d) for dependent children of military service members: a 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 214, DD 215, DD 256, DD 257, NGB Form 22, Military ID card, a driver's license or state ID card with a veterans designation, or other documentation as provided by a governmental entity verifying an honorable discharge.
- 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 of the materials required by 16.21.4.20 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 disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-8-11 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 a licensing fee for the first three years of licensure with the board.

[16.10.3.14 NMAC – N, --/--/----

TEMPORARY LICENSE: A temporary license may be issued by the board in the following situations.

A. In cases of emergency as determined by the board; a temporary license to practice as a podiatric physician may be issued under this rule for practice in the office of a New Mexico licensed podiatrist who is unable to continue his or her practice due to an emergency.

B. To facilitate educational programs; a temporary license to practice podiatry in New Mexico may be issued to:

(1) a participant in a residency training program located in New Mexico accredited by the "CPME" and insure that at all times throughout the program the temporary license holder is supervised by a New Mexico licensed podiatrist; or

(2) a participant in a residency program that is located in the United States accredited by the "CPME" and insure that at all times the temporary license holder is supervised by a New Mexico licensed podiatrist, if the program offers part of its program residency in New Mexico;

(3) a participant in a post-graduate 1 year preceptorship program in New Mexico that at all times throughout the program is supervised by a New Mexico licensed podiatrist(s) in good standing and without restriction(s) of license; the board requires the supervising podiatrist(s) of this preceptorship to have notified the board in writing of the start and end dates for this post-graduate training position.

(4) a participant in a Fellowship program known and listed by a recognized medical specialty organization provided that at all times the temporary license holder is supervised by a New Mexico Licensed podiatrist.

C. In cases to assist or perform surgical procedures with a licensed New Mexico podiatrist which is beyond the training and experience available in New Mexico

[16.10.3.15 NMAC – N, --/--/----

TEMPORARY LICENSE DOCUMENTATION REQUIREMENTS: Each applicant for a temporary license must submit the required fees and submit or provide for the following documentation set forth in 16.10.3.8 NMAC.

[16.10.3.16 NMAC – N, --/--/----

DISASTER RELATED LICENSE: Podiatric physician currently licensed and in good standing, or otherwise meeting the requirements for New Mexico licensure, in a state in which a disaster has been declared by federal authorities, may apply for a license in New Mexico during the four months following the date the disaster was declared, at no cost.

[16.10.3.17 NMAC – N, --/--/----

DISASTER RELATED LICENSE DOCUMENTATION REQUIREMENTS: Nothing in this section shall constitute a waiver of the requirements for licensure contained in 16.10.3.8 NMAC.

A. Upon receipt of a completed application, including all required documentation designee of the board will review and may approve the application. The results of the background check must either indicate no negative findings, or if there are negative findings, those findings will be reviewed by the complaint/review committee. The board may formally accept the recommendation of the complaint/review committee at the next scheduled meeting.

[16.10.3.18 NMAC – N, --/--/----

REPORTS: The board requires obtainment of reports from the national practitioners data bank or other national reporting organization and the federation of podiatric medical boards disciplinary data bank.

[16.10.3.19 NMAC – N, --/--/----

LICENSURE PROCEDURE: Upon receipt of a completed application, including all required documentation and fees, the designee of the board will review and may approve the application. The results of the background check must either indicate no negative findings, or if there are negative findings, those findings will be considered by the board. The board may ratify the approval of the application at the next scheduled board meeting. Any application which cannot be approved by the designee of the board will be reviewed by the board at the next scheduled meeting.

[16.10.3.19 NMAC – N, --/--/----]

HISTORY of 16.21.3 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:

Rule II, Initial Application for License, filed 7/21/1980;

Rule II, Initial Application for License, filed 8/18/1989;

Rule II, Initial Application for License, filed 11/29/1990;

Rule II, Initial Application for License, filed 12/10/1990;

Rule V, Examinations, filed 9/11/1989.

History of the Repealed Material:

16 NMAC 21.3, Podiatry - Application for License by Examination, repealed 10/15/2004.

16.21.3 NMAC, Podiatrists - License by Exam filed 9/15/2004, Repealed effective 5/3/2019.

Other History:

Rule II, Initial Application for License (filed 12/10/1990) was renumbered, reformatted and replaced by 16 NMAC 21.3, Podiatry - Application for License By Examination, effective 7/1/1996.

Rule V, Examinations, (filed 9/11/1989) and 16 NMAC 21.3, Podiatry - Application for License by Examination (filed 6/17/1996) were replaced by 16.21.3 NMAC, License by Exam, effective 10/15/2004. 16.21.3 NMAC, Podiatrists - License by Exam filed 9/15/2004 was replaced by 16.21.3 NMAC, Podiatrists - License by Exam effective 5/3/2019.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER [24] ~~[PODIATRISTS]~~ MEDICINE AND SURGERY PRACTITIONERS
PART 7 LICENSE EXPIRATION AND RENEWAL

[16.21.7.1] ISSUING AGENCY: ~~[Regulation and Licensing Department, NM Board of Podiatry]~~ New Mexico Medical Board hereafter called the board, with the recommendations of the podiatry advisory committee, hereafter called the committee.

[16.21.7.1 NMAC - N, 10-15-04; 16.10.7.1 NMAC – Rp, 16.21.7.1 NMAC --/--/----]

[16.21.7.2] SCOPE: ~~[All podiatrists with a license to practice in New Mexico.]~~ The provisions in 16.10.7.2 NMAC apply to all parts of Chapter 10 and provide information for applicants, licensed podiatric physician, board members, council and members of the public.

[16.21.7.2 NMAC - N, 10-15-04; 16; 16.10.7.2 NMAC, - Rp, 16.21.7.2 NMAC --/--/----]

[16.21.7.3] STATUTORY AUTHORITY: ~~[Podiatry Act, 61-8-10 NMSA 1978 and 61-8-10.1 NMSA 1978]~~ Podiatry Act, Section 61-8-10 NMSA and the Medical Practice Act, Sections 61-6-1 through 61-6-35 NMSA 1978.

[16.21.7.3 NMAC - N, 10-15-04; 16.10.7.3 NMAC – Rp, 16.21.7.3 NMAC --/--/----]

[16.21.7.4] DURATION: Permanent.

[16.21.7.4 NMAC - N, 10-15-04; 16.10.7.4 NMAC – Rp, 16.21.7.4 NMAC --/--/----]

[16.21.7.5] EFFECTIVE DATE: ~~[October 15, 2004]~~ --/--/----, unless a later date is cited at the end of a section.

[16.21.7.5 NMAC - N, 10-15-04; 16.10.7.5 NMAC – Rp, 16.21.7.5 NMAC --/--/----]

[16.21.7.6] OBJECTIVE: To establish procedures for license expiration and renewal.

[16.21.7.6 NMAC - N, 10-15-04; 16.10.7.6 NMAC – Rp, 16.21.7.6 NMAC --/--/----]

[16.21.7.7] DEFINITIONS: [RESERVED]

16.10.7.7.NMAC – Rp, 16.21.7.7 NMAC --/--/----

[16.21.7.8] LICENSE EXPIRATION: Podiatric licenses expire on January 1 of ~~[each]~~ every second year.

[16.21.7.8 NMAC - Rp, Rule VI.A, 10-15-04; 16.10.7.8 NMAC – Rp, 16.21.7.8 NMAC --/--/----]

[16.21.7.9] RENEWAL DEADLINE: All licensee shall renew their licenses on or before January 1 of every second year. A completed renewal application accompanied by the required fees, documentation of [16]32 hours of continuing education as defined in [16.21.8.13]16.10.8.13 NMAC [and must be post marked], must be received electronically [or hand delivered] on or before January 1 of each renewal year. On or after January 2, 2015 the CE requirement is [16]32 hours of CE, including 2 hours of pain management for each year of the renewal cycle. As a condition of renewal, all applicants shall furnish the board with evidence of completion of postgraduate study as required by board rule.(See HB 83, pg. 28)

[16.21.7.9 NMAC - Rp, Rule VI.A, 10-15-04; A, 07-29-11; A, 11-01-13; 16.16.7.9 NMAC – Rp, 16.21.7.9 NMAC - --/--/----]

[16.21.7.10] LICENSEE RESPONSIBILITY: The board assumes no responsibility for renewal applications not received by the licensee for any reason. It is the licensee's responsibility to make timely request for the renewal form if one has not been received thirty days prior to license expiration.

[16.21.7.10 NMAC - Rp, Rule VI.A, 10-15-04; 16.10.7.10 NMAC – Rp, 16.21.7.10 NMAC --/--/----]

[16.21.7.11] LATE RENEWAL: Renewal applications that are not ~~[postmarked]~~ received electronically or hand-delivered to the board office by January 1 must be accompanied by the completed renewal application as defined in [16.21.7.9] 16.10.7.9 NMAC and late fees defined in Subsection F of [16.21.2.8]16.10.2.8 NMAC.

[16.21.7.11 NMAC - Rp, Rule VI.B, 10-15-04; A, 07-29-11; 16.10.7.11 NMAC – Rp, 16.21.7.11 --/--/----]

[16.21.7.12] SUMMARY SUSPENSION: A license that is not renewed by March 1 may be summarily suspended by the board.

[16.21.7.12 NMAC - Rp, Rule VI.B, 10-15-04; 16.10.7.12 NMAC - Rp, 16.21.7.12 --/--/----]

HISTORY of 16.21.7 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:

Rule VI, Renewal of License, filed 7-21-80;

Rule VI, Renewal of License, filed 8-18-89.

History of Repealed Material: Rule VI, Renewal of License (filed 8-18-89), repealed 10-15-2004.

Other History:

Rule VI, Renewal of License (filed 8-18-89) was renumbered, reformatted and replaced by 16.21.7 NMAC, License Expiration and Renewal, effective 10-15-2004.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
[CHAPTER 21] [PODIATRISTS] MEDICINE AND SURGERY PRACTITIONERS
PART 8 CONTINUING EDUCATION

[16.21.8.1] ISSUING AGENCY: ~~[Regulation and Licensing Department, Board of Podiatry].~~ New Mexico Medical Board hereafter called the board, with the recommendations of the podiatry advisory committee, hereafter called the committee.

[16.21.8.1 NMAC - Rp, 16.21.8.1 NMAC 5/3/2019; 16.10.8.1 NMAC – Rp, 16.21.8.1 NMAC]

[16.21.8.2] SCOPE: ~~[Individuals with a license to practice podiatry in the state of New Mexico.] The provisions in 16.10.8.2 NMAC apply to all parts of Chapter 10 and provide information for applicants, licensed podiatric physician, board members, council and members of the public.~~

[16.21.8.2 NMAC - Rp, 16.21.8.2 NMAC 5/3/2019; 16.10.8.2 NMAC – Rp, 16.21.8.2 --/--/----]

[16.21.8.3] STATUTORY AUTHORITY: ~~[This rule is promulgated pursuant to the Podiatry Act, Subsection B of Section 61-8-10.1 NMSA 1978, which requires, as a condition of license renewal, evidence of completion of post graduate study as required by board rule.] Podiatry Act, Section 61-8-6 NMSA and the Medical Practice Act, Sections 61-6-1 through 61-6-35 NMSA 1978.~~

[16.21.8.3 NMAC - Rp, 16.21.8.3 NMAC 5/3/2019; 16.10.8.3 NMAC – Rp, 16.21.8.3 NMAC --/--/----]

[16.21.8.4] DURATION: Permanent.

[16.21.8.4 NMAC - Rp, 16.21.8.4 NMAC 5/3/2019, 16.10.8.4 NMAC – Rp, 16.21.8.4 NMAC --/--/----]

[16.21.8.5] EFFECTIVE DATE: ~~[May 3, 2019]~~ --/--/---- unless a later date is cited at the end of a section.

[16.21.8.5 NMAC - Rp, 16.21.8.5 NMAC 5/3/2019, 16.10.8.5 NMAC – Rp, 16.21.8.5 --/--/----]

[16.21.8.6] OBJECTIVE: To establish the criteria, standards, approval requirements, verification and waiver requirements, for post-graduate study required by the board for license renewal.

[16.21.8.6 NMAC - Rp, 16.21.8.6 NMAC 5/3/2019; 16.10.8.6 NMAC – Rp, 16.21.8.6 NMAC --/--/----]

[16.21.8.7] DEFINITIONS: [RESERVED]

[16.10.8.7 NMAC – Rp, 16.21.8.7 NMAC --/--/----

[16.21.8.8] HOURS REQUIRED: ~~[Sixteen hours]~~ Thirty-two hours of continuing education are required ~~bi-~~ annually, with two hours specifically related to pain management for each year of the renewal cycle as defined in ~~[16.21.9.11]~~ 16.10.8.11 NMAC. Initial licenses issued for a period of less than six months do not require any continuing education for the initial licensing period. Licenses issued for more than six months but less than 12 months require eight hours of continuing education for the initial licensing period.

A. Continuing education coursework must contribute directly to the practice of podiatric medicine.

B. One hour of credit will be granted for every contact hour of instruction. This credit shall apply to either academic or clinical instruction.

[16.21.8.8 NMAC - Rp, 16.21.8.8 NMAC 5/3/2019; 16.10.8.8 NMAC – Rp, 16.21.8.8 NMAC --/--/----]

[16.21.8.9] APPROVED COURSES: Continuing education courses offered or sponsored by the following organizations are automatically approved by the board:

A. a college of podiatric medicine which is accredited by the council podiatric medical education

(CPME) of the American podiatric medical association;

B. constituent society of the American podiatric medical association;

C. an organization or sponsor approved by the “CPME” of the American podiatric medical association; or

D. hospital or other health care organizations sponsored in-service programs related to the practice of podiatry.

[16.21.8.9 NMAC - Rp, 16.21.8.9 NMAC 5/3/2019; 16.10.8.9 NMAC – Rp, 16.21.8.9 NMAC --/--/----]

[16.21.8.10] APPROVAL REQUIREMENTS: Any course not sponsored by a recognized provider may be approved by the designee of the board. The application for approval must include the name of the course, the

sponsor, course outline, date, location, hours, names and qualifications of presenters, and the method that will be used to certify attendance.

[16.21.8.10 NMAC - Rp, 16.21.8.10 NMAC 5/3/2019; 16.10.8.10 NMAC – Rp, 16.21.8.10 NMAC --/--/----]

[16.21.8.11] ALLOWED COURSES AND PROVIDERS: The following courses and activities are acceptable for CME credit for each year of the renewal cycle:

A. **Post Graduate Education:** This category includes internships, residencies and fellowships, 14 hours of credit allowed for full time participants.

B. **Specialty Training/Certifications:** Four hours of credit per certificate for specialty training with a maximum of 10 hours per year. A maximum of 10 hours of credit is allowed for certification with a CPME approved board initially obtained or renewed within the license renewal cycle.

C. **Teaching:** One credit hour is allowed for each hour of teaching medical students or physicians in a United States medical school, an approved residency/fellowship or for teaching in other programs approved by the board with maximum of 10 hours per reporting.

D. **Physician Preceptors/Mentors:** A maximum of five hours of credit during a year reporting period is acceptable for licensed podiatrists who are acting as preceptors/mentors for students enrolled in an accredited medical degree program or as preceptors/mentors for students enrolled in a combined bachelor of arts and medical degree program.

E. **Papers and Publications:** 10 hours of credit are allowed for each original scientific medical paper or publication written by a licensee. For acceptance, papers must have been presented to a recognized national, international, regional or state society or organization whose membership is primarily physicians; or must have been published in a recognized medical or medically related scientific journal.

F. **Advanced Life Support:** Four hours of credit may be claimed during reporting period for successful completion of advanced cardiac life support (ACLS), pediatric advanced life support (PALS), advanced trauma life support (ATLS) and neonatal advanced life support (NALS) courses.

[16.21.8.11 NMAC - Rp, 16.21.8.11 NMAC 5/3/2019; 16.10.8.11 NMAC – Rp, 16.21.8.11 NMAC --/--/----]

[16.21.8.12] VERIFICATION OF COURSE ATTENDANCE: The following documents, or combination of documents, may be used to verify attendance in required continuing education.

A. Course certificate with the course title, content, presenter, sponsor and hours.

B. Course attendance sheet submitted by the sponsor.

C. Course code or statement of attendance from presenter or sponsor.

[16.21.8.12 NMAC - Rp, 16.21.8.12 NMAC 5/3/2019; 16.10.8.12 NMAC – Rp, 16.21.8.12 NMAC --/--/----]

[16.21.8.13] VERIFICATION OF CONTINUING EDUCATION HOURS: Each podiatrist renewing a license shall attest that they have obtained the required hours of continuing medical education (CME). Documentation of CME is not required unless you are selected for the annual CME compliance audit. If you are selected for audit you will be notified and provided with instructions for compliance. The board may audit CME records at any time, so CME records must be maintained for at least one year following the renewal cycle in which they are earned.

[16.21.8.13 NMAC - Rp, 16.21.8.13 NMAC 5/3/2019; 16.10.8.13 NMAC – Rp, 16.21.8.13 NMAC --/--/----]

[16.21.8.14] ACCEPTABLE DOCUMENTATION OF CME INCLUDES:

A. Photocopies of original certificates or official letters from course sponsors or online providers.

B. Postgraduate CME hours must be documented and attested either by the dean of the medical school, the chief of service, the course director, or an equivalent authority.

C. Advanced degree studies must be documented and attested either by the dean of the medical school, the chief of service, the course director, or an equivalent authority.

D. Teaching hours must be documented and attested either by the dean of the medical school, the chief of service, the course director, or an equivalent authority.

E. Preceptor hours must be documented and attested either by the dean of the medical school, the chief of service, the course director, or an equivalent authority.

F. Papers or publications must be documented with a copy.

[16.21.8.14 NMAC - Rp, 16.21.8.14 NMAC 5/3/2019; 16.10.8.14 NMAC – Rp, 16.21.8.14 NMAC --/--/----]

[16.21.8.15] WAIVER OF REQUIREMENTS: Waivers of the continuing education requirement may be considered for the following situations for licensees.

A. During periods of prolonged illness or physical incapacity.

(1) For the purposes of this rule, the duration of a prolonged illness or physical incapacity period will be defined as longer than six months.

(2) Any licensee who wishes to apply for this type of waiver of continuing education must submit in writing a letter detailing the nature of the illness or incapacity and its probable duration. The board will review this waiver request and allow the licensee or the licensee's representative to attend board meeting to present evidence of support of this waiver request and to speak to the board concerning the petition for waiver. The burden shall be on the licensee to prove to the board the necessity of the waiver. The decision of the board on the waiver shall be final.

B. Any licensee who believes that the licensee is entitled to a waiver of a continuing education requirement for reasons of prolonged illness or physical incapacity shall request such a waiver by sending the board a letter from his or her physician setting out in detail the nature of the illness or incapacity and its probable duration. The board shall notify the licensee in writing of the date on which the application will be considered by the board. The licensee or the licensee's representative may attend the meeting, present evidence on behalf of a petition for waiver, and to speak to the board concerning the petition. The burden shall be on the licensee to satisfy the board of the necessity of the waiver. The decision of the board on the waiver shall be final.

C. Licensee in the United States military practicing or residing outside the United States shall not be required to fulfill the continuing education requirements for the period of the absence.

(1) The board must be notified prior to license expiration that the licensee will be outside the United States, including the period of the absence.

(2) Upon return to the United States, the licensee shall complete the continuing education required for the years of practice within the US during the renewal cycle, or apply in writing to the board detailing reason for deferral of this requirement.

D. Applications for waiver under this section must be filed as soon as the licensee has reason to believe that grounds for the waiver exist.

[16.21.8.15 NMAC - Rp, 16.21.8.15 NMAC 5/3/2019; 16.10.8.15 NMAC - Rp, 16.21.8.15 NMAC --/--/----]

[16.21.8.16] EXTENSION TO MEET REQUIREMENTS: The board may extend the time in which a licensee may meet the required continuing education requirements.

A. A licensee unable to fulfill the continuing education requirements may apply to the board for an extension of time in which to meet educational requirements. Extensions of up to three months may be granted by the board or its designee. Licensees granted an extension must pay the late fee defined in Subsection F of [16.21.2.8] 16.10.2.8 NMAC to cover the cost of additional processing requirements.

B. A licensee who is unable to fulfill the requirements within the three month extension must apply to the board for an additional extension.

[16.21.8.16 NMAC - Rp, 16.21.8.16 NMAC 5/3/2019; 16.10.8.16 NMAC - Rp, 16.21.8.16 NMAC --/--/----]

HISTORY of 16.21.8 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:

Rule VII, Continuing Education, filed 7/21/1980.

Rule VII, Continuing Education, filed 10/6/1987.

Rule VII, Continuing Education, filed 8/18/1989.

History of Repealed Material: Rule VI, Renewal Of License (filed 8/18/1989), repealed 10/15/2004.
16.21.8 NMAC, Podiatrists - Continuing Education filed 9/15/2004, Repealed effective 5/3/2019.

Other History:

Rule VII, Continuing Education (filed 8/18/1989) was renumbered, reformatted and replaced by 16.21.8 NMAC, Continuing Education, effective 10/15/2004.

16.21.8 NMAC, Podiatrists - Continuing Education filed 9/15/2004 was replaced by 16.21.8 NMAC, Podiatrists - Continuing Education effective 5/3/2019.

TITLE 16 — OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER ~~[21]~~ 10 — ~~[PODIATRISTS]~~ MEDICINE AND SURGERY PRACTITIONERS
PART 9 — MANAGEMENT OF PAIN WITH CONTROLLED SUBSTANCES

~~[16.21.9.1]~~16.10.9.1 — **ISSUING AGENCY:** ~~[Regulation and Licensing Department, NM Board of Podiatry.]~~
~~New Mexico Medical Board hereafter called the board, with the recommendations of the podiatry advisory~~
~~committee, hereafter called the committee.~~

~~[16.21.9.1 NMAC — N, 11/1/2013; 16.10.9.1 NMAC — Rp. 16.21.9.1 NMAC — / / —]~~

~~[16.21.9.2]~~16.10.9.2 — **SCOPE:** This part applies to all New Mexico licensed ~~[podiatrists]~~ pediatric physicians
who hold a federal drug enforcement administration registration.

~~[16.21.9.2 NMAC — N, 11/1/2013; 16.10.9.2 NMAC — Rp. 16.21.9.2 NMAC — / / —]~~

~~[16.21.9.3]~~16.10.9.3 — **STATUTORY AUTHORITY:** These rules are promulgated pursuant to and in
accordance with the Podiatry Act, Sections 61-8-1 through 61-8-17 NMSA 1978 ~~and the Medical Practice Act,~~
~~Sections 61-6-1 through 61-6-35 NMSA 1978, and the Pain Relief Act, Sections 24-2D-1 NMSA through 24-2D-6.~~

~~[16.21.9.3 NMAC — N, 11/1/2013; 16.10.9.3 NMAC — Rp. 16.21.9.3 NMAC — / / —]~~

~~[16.21.9.4]~~16.10.9.4 — **DURATION:** Permanent.

~~[16.21.9.4 NMAC — N, 11/1/2013; 16.10.9.4 NMAC — Rp. 16.21.9.4 NMAC — / / —]~~

~~[16.21.9.5]~~16.10.9.5 — **EFFECTIVE DATE:** ~~[November 1, 2013]~~ / /, unless a later date is cited at the
end of a section.

~~[16.21.9.5 NMAC — N, 11/1/2013; 16.10.9.5 NMAC — Rp. 16.21.9.5 NMAC — / / —]~~

~~[16.21.9.6]~~16.10.9.6 — **OBJECTIVE:** It is the position of the board that practitioners have an obligation to treat
chronic pain and that a wide variety of medicines including controlled substances and other drugs may be prescribed
for that purpose. When such medicines and drugs are used, they should be prescribed in adequate doses and for
appropriate lengths of time after a thorough medical evaluation has been completed.

~~[16.21.9.6 NMAC — N, 11/1/2013; 16.10.9.6 NMAC — Rp. 16.21.9.6 NMAC — / / —]~~

~~[16.21.9.7]~~16.10.9.7 — **DEFINITIONS:**

—— **A.** — “Addiction” is a neurobehavioral syndrome with genetic and environmental influences that results
in psychological dependence on the use of substances for their psychic effects. It is characterized by behaviors that
include one or more of the following: impaired control over drug use; compulsive use; continued use despite harm;
and, craving. Physical dependence and tolerance are normal physiological consequences of extended opioid therapy
for pain and should not by themselves be considered addiction.

—— **B.** — “Acute pain” means the normal, predicted physiological response to a noxious chemical or thermal
or mechanical stimulus, typically associated with invasive procedures, trauma or disease and is generally time-
limited.

—— **C.** — “Chronic pain” means pain that persists after reasonable medical efforts have been made to relieve
the pain or its cause and that continues, either continuously or episodically, for longer than three consecutive
months. “Chronic pain” does not, for purpose of the Pain Relief Act requirements, include pain associated with a
terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be
expected to result in a terminal condition.

—— **D.** — “Clinical expert” means a person who, by reason of specialized education or substantial relevant
experience in pain management, has knowledge regarding current standards, practices and guidelines.

—— **E.** — “Drug abuser” means a person who takes a drug or drugs for other than legitimate medical
purposes.

—— **F.** — “Pain” means acute or chronic pain or both.

—— **G.** — “Physical dependence” means a state of adaptation that is manifested by a drug-specific
withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the
drug, administration of an antagonist, or a combination of these.

—— **H.** — “Prescription monitoring program” means a centralized system to collect, monitor, and analyze
electronically, for controlled substances, prescribing and dispensing data submitted by pharmacies and dispensing
practitioners. The data are used to support efforts in education, research, enforcement and abuse prevention.

~~I. "Therapeutic purpose" means the use of pharmaceutical and non pharmaceutical medical treatment that conforms substantially to accepted guidelines for pain management.~~

~~J. "Tolerance" means a state of adaptation in which exposure to a drug induces changes that result in a diminution of one or more of the drug's effects over time.~~

~~[16.21.9.7 NMAC N, 11/1/2013; 16.10.9.7 NMAC Rp, 16.21.9.7 NMAC / / -;]~~

~~16.21.9.8~~16.10.9.8 ~~HEALTH CARE PRACTITIONER'S PRESCRIPTIVE PRACTICES:~~ The following regulations shall be used by the board to determine whether a health care practitioner's prescriptive practices are consistent with the appropriate treatment of pain.

~~A. The treatment of pain with various medicines or controlled substances is a legitimate medical practice when accomplished in the usual course of professional practice. It does not preclude treatment of patients with addiction, physical dependence or tolerance who have legitimate pain. However, such patients do require very close monitoring and precise documentation.~~

~~B. The prescribing, ordering, administering or dispensing of controlled substances to meet the individual needs of the patient for management of chronic pain is appropriate if prescribed, ordered, administered or dispensed in compliance with the following.~~

~~(1) A practitioner shall complete a physical examination and include an evaluation of the patient's psychological and pain status. The medical history shall include any previous history of significant pain; past history of alternate treatments for pain, potential for substance abuse, coexisting disease or medical conditions; and the presence of a medical indication or contra-indication against the use of controlled substances.~~

~~(2) A practitioner shall be familiar with and employ screening tools as appropriate, as well as the spectrum of available modalities, in the evaluation and management of pain. The practitioner shall consider an integrative approach to pain management.~~

~~(3) A written treatment plan shall be developed and tailored to the individual needs of the patient, taking age, gender, culture, and ethnicity into consideration, with stated objectives by which treatment can be evaluated, e.g. by degree of pain relief, improved physical and psychological function, or other accepted measure. Such a plan shall include a statement of the need for further testing, consultation, referral or use of other treatment modalities.~~

~~(4) The practitioner shall discuss the risks and benefits of using controlled substances with the patient or surrogate or guardian, and shall document this discussion in the record.~~

~~(5) Complete and accurate records of care provided and drugs prescribed shall be maintained. When controlled substances are prescribed, the name of the drug, quantity, prescribed dosage and number of refills authorized shall be recorded. Prescriptions for opioids shall include indications for use. For chronic pain patients treated with controlled substance analgesic(s), the prescribing practitioner shall use a written agreement for treatment with the patient outlining patient responsibilities. As part of a written agreement, chronic pain patients shall receive all chronic pain management prescriptions from one practitioner and one pharmacy whenever possible.~~

~~(6) The management of patients needing chronic pain control requires monitoring by the attending or the consulting practitioner. The practitioner shall periodically review the course of treatment for chronic pain, the patient's state of health, and any new information about the etiology of the chronic pain at least every six months. In addition, a practitioner shall consult, when indicated by the patient's condition, with health care professionals who are experienced (by the length and type of their practice) in the area of chronic pain control; such professionals need not be those who specialize in pain control.~~

~~(7) If, in a practitioner's medical opinion, a patient is seeking pain medication for reasons that are not medically justified, the practitioner is not required to prescribe controlled substances for the patient.~~

~~C. Pain management for patients with substance use disorders shall include:~~

~~(1) a contractual agreement;~~

~~(2) appropriate consultation;~~

~~(3) drug screening when other factors suggest an elevated risk of misuse or diversion; and~~

~~(4) a schedule for re-evaluation at appropriate time intervals at least every six months.~~

~~D. The board will evaluate the quality of care on the following basis: appropriate diagnosis and evaluation; appropriate medical indication for the treatment prescribed; documented change or persistence of the recognized medical indication; and, follow up evaluation with appropriate continuity of care. The board will judge the validity of prescribing based on the practitioner's treatment of the patient and on available documentation, rather than on the quantity and chronicity of prescribing. The goal is to control the patient's pain for its duration while~~

effectively addressing other aspects of the patient's functioning, including physical, psychological, social, and work-related factors.

~~E. The board will review both over-prescription and under-prescription of pain medications using the same standard of patient protection.~~

~~F. A practitioner who appropriately prescribes controlled substances and who follows this section would be considered to be in compliance with this rule and not be subject to discipline by the board, unless there is some violation of the Podiatry Act or board rules.~~

~~[16.21.9.8 NMAC N, 11/1/2013; 16.10.9.8 NMAC Rp. 16.21.9.8 / / / /]~~

~~16.21.9.9 16.10.9.9 PODIATRIC PHYSICIAN TREATED WITH OPIATES: Podiatric physicians who have chronic pain and are being treated with opiates shall be evaluated by a pain clinic or, by an MD or DO pain specialist, and must have a complete, independent neuropsychological evaluation, as well as clearance from their physician, before returning to or continuing in practice. In addition, they must remain under the care of a physician for as long as they remain on opiates while continuing to practice.~~

~~[16.21.9.9 NMAC N, 11/1/2013; 16.10.9.9 NMAC Rp. 16.21.9.9 NMAC / / / /]~~

~~16.21.9.10 16.10.9.10 PRESCRIPTION MONITORING PROGRAM (PMP) REQUIREMENTS: The intent of the New Mexico board of podiatry in requiring participation in the PMP is to assist practitioners in balancing the promotion of the safe use of controlled substances for the provision of medical care and services with the need to impede illegal and harmful activities involving these pharmaceuticals.~~

~~A. A podiatrist who holds a federal drug enforcement administration registration and a New Mexico controlled substance registration shall register with the board of pharmacy to become a regular participant in PMP inquiry and reporting.~~

~~B. A podiatrist may authorize delegate(s) to access the prescription monitoring report consistent with board of pharmacy regulation 16.19.29 NMAC. While a practitioner's delegate may obtain a report from the state's prescription monitoring program, the practitioner is solely responsible for reviewing the prescription monitoring report and documenting the receipt and review of a report in the patient's medical record.~~

~~C. Before a practitioner prescribes or dispenses for the first time, a controlled substance in schedule II, III, IV or V to a patient for a period greater than four days, or if there is a gap in prescribing the controlled substance for 30 days or more, the practitioner shall review a prescription monitoring report for the patient for the preceding 12 months. When available, the practitioner shall review similar reports from adjacent states. The practitioner shall document the receipt and review of such reports in the patient's medical record.~~

~~D. A prescription monitoring report shall be reviewed a minimum of once every three months during the continuous use of a controlled substance in schedule II, III, IV or V for each patient. The practitioner shall document the review of these reports in the patient's medical record. Nothing in this section shall be construed as preventing a practitioner from reviewing prescription monitoring reports with greater frequency than that required by this section.~~

~~E. A practitioner does not have to obtain and review a prescription monitoring report before prescribing, ordering, or dispensing a controlled substance in schedule II, III, IV or V:~~

- ~~(1) for a period of four days or less; or~~
- ~~(2) to a patient in a nursing facility; or~~
- ~~(3) to a patient in hospice care.~~

~~F. Upon review of a prescription monitoring report for a patient, the practitioner shall identify and be aware of a patient currently:~~

- ~~(1) receiving opioids from multiple prescribers;~~
- ~~(2) receiving opioids and benzodiazepines concurrently;~~
- ~~(3) receiving opioids for more than twelve consecutive weeks;~~
- ~~(4) receiving more than one controlled substance analgesic;~~
- ~~(5) receiving opioids totaling more than 90 morphine milligram equivalents per day;~~
- ~~(6) exhibiting potential for abuse or misuse of opioids and other controlled substances, such as over-utilization, requests to fill early, requests for specific opioids, requests to pay cash when insurance is available, receiving opioids from multiple pharmacies.~~

~~G. Upon recognizing any of the above conditions described in Subparagraph F of 16.21.9 NMAC, the practitioner, using professional judgment based on prevailing standards of practice, shall take action as appropriate to prevent, mitigate, or resolve any potential problems or risks that may result in opioid misuse, abuse, or overdose including reporting of health care providers to their licensing board if prevailing prescribing standards are being~~

deviated from. These steps may involve counseling the patient on known risks and realistic benefits of opioid therapy, prescription and training for naloxone, consultation with or referral to a pain management specialist, or offering or arranging treatment for opioid or substance use disorder. The practitioner shall document actions taken to prevent, mitigate, or resolve the potential problems or risks.

~~{16.21.9.10 NMAC - N, 11/01/13; A, 12/30/2016; 16.10.9.10 NMAC - Rp, 16.21.9.10 NMAC - / / - - -}~~

~~{16.21.9.11}16.10.9.11~~ **PAIN MANAGEMENT CONTINUING EDUCATION:** This section applies to all New Mexico board of podiatry licensees.

~~_____~~ **A. Immediate requirements effective January 2, 2014.** Beginning January 2, 2014 and then for each annual renewal cycle, all New Mexico board of podiatry licensees shall complete no less than two continuing medical education hours in appropriate courses:

- ~~_____~~ (1) an understanding of the pharmacology and risks on controlled substances;
- ~~_____~~ (2) a basic awareness of the problems of abuse, addiction and diversion;
- ~~_____~~ (3) awareness of state and federal regulations for the prescription of controlled substances;
- ~~_____~~ (4) management of the treatment of pain; and
- ~~_____~~ (5) courses may also include a review of this rule (16.21.9 NMAC); the applicability of such

~~_____~~ courses toward fulfillment of the continuing medical education requirement is subject to New Mexico board of podiatry approval; podiatrists who have taken CME in these educational elements between January 1, 2013 and December 31, 2014 may apply those hours toward the required two CME described in this section.

~~_____~~ **B. Requirements for new licensees.** All New Mexico board of podiatry licensees, whether or not the New Mexico license is their first license shall complete two continuing medical education hours in pain management during the first year of licensure and then for each annual renewal cycle.

~~_____~~ **C.** The continuing education requirements of this section are included in the sixteen hours needed for renewal.

~~{16.21.9.11 NMAC - N, 11/1/2013; 16.10.9.11 NMAC - Rp, 16.21.9.11 - / / - - -}~~

~~{16.21.9.12}16.10.9.12~~ **NOTIFICATION:** In addition to the notice of procedures set forth in the State Rules Act, Section 14-4-1 et seq NMSA 1978, the board shall separately notify the following persons of the Pain Relief Act and the New Mexico podiatry board rule, 16.21.9 NMAC:

- ~~_____~~ **A.** health care practitioners under its jurisdiction; and
- ~~_____~~ **B.** a health care practitioner being investigated by the board in relation to the practitioner's pain management services.

~~{16.21.9.12 NMAC - N, 11/1/2013; 16.10.9.12 NMAC - Rp, 16.21.9.12 - / / - - -}~~

HISTORY OF 16.21.9 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER ~~21~~ [PODIATRIC PHYSICIANS] MEDICINE AND SURGERY PRACTITIONERS
PART ~~10~~ LAPSE OF LICENSE AND REINSTATEMENT

~~[16.21.10.1]~~ ISSUING AGENCY: ~~[Regulation and Licensing Department, Board of Podiatry.] New Mexico Medical Board hereafter called the board, with the recommendations of the podiatry advisory committee, hereafter called the committee.~~

~~[16.21.10.1 NMAC - Rp, 16.21.10.1 NMAC 5/3/2019; 16.10.10.1 NMAC - Rp, 16.21.10.1 NMAC --/--/----~~

~~[16.21.10.2]~~ SCOPE: ~~Podiatric physicians Podiatric physicians licensed in New Mexico who do not submit an application for license renewal within 60 days of the expiration date.~~

~~[16.21.10.2 NMAC - Rp, 16.21.10.2 NMAC 5/3/2019; 16.10.10.2 NMAC - Rp, 16.21.10.2 NMAC --/--/----~~

~~[16.21.10.3]~~ STATUTORY AUTHORITY: This rule is promulgated pursuant to the Podiatry Act, 61-8-10 and 61-8-10.1 NMSA 1978, and the Medical Practice Act, Sections 61-6-1 through 61-6-35 NMSA 1978.

~~[16.21.10.3 NMAC - Rp, 16.21.10.3 NMAC 5/3/2019; 16.10.10.3 NMAC - Rp, 16.21.10.3 NMAC --/--/----~~

~~[16.21.10.4]~~ DURATION: Permanent.

~~[16.21.10.4 NMAC - Rp, 16.21.10.4 NMAC 5/3/2019; 16.10.10.4 NMAC - Rp, 16.21.10.4 NMAC --/--/----~~

~~[16.21.10.5]~~ EFFECTIVE DATE: ~~[May 3, 2019] --/--/----~~ unless a later date is cited at the end of a section.

~~[16.21.10.5 NMAC - Rp, 16.21.10.5 NMAC 5/3/2019; 16.10.10.5 NMAC - Rp, 16.21.10.5 NMAC --/--/----~~

~~[16.21.10.6]~~ OBJECTIVE: To establish the procedures and policies for ~~[podiatry]~~ podiatric licenses that are not renewed within 60 days of the date of expiration.

~~[16.21.10.6 NMAC - Rp, 16.21.10.6 NMAC 5/3/2019; 16.10.10.6 NMAC - Rp, 16.21.10.6 NMAC --/--/----~~

~~[16.21.10.7]~~ DEFINITIONS: ~~[RESERVED]~~~~[16.10.10.7 NMAC - N, --/--/----~~

~~[16.21.10.8]~~ LICENSE SUSPENSION FOR NON-RENEWAL: Unless an application for license renewal is received by the board office, or post-marked, before March 1, the license may be summarily suspended.

~~[16.21.10.8 NMAC - Rp, 16.21.10.8 NMAC 5/3/2019; 16.10.10.8 NMAC - Rp, 16.21.10.8 NMAC --/--/----~~

~~[16.21.10.9]~~ REINSTATEMENT OF SUSPENDED LICENSE: A podiatric physician may request reinstatement of a lapsed license within three years from the date the license expired by notifying the board in writing. Upon receipt of the request for reinstatement, board staff will send a reinstatement application. The board may designate a professional background information service, which compiles background information regarding an applicant from multiple sources. The following information is required for the request to be considered:

A. a completed application, payment of the reinstatement fee, any delinquent renewal fees, and proof of sixteen hours of continuing education per the year of renewal and each full year the license was allowed to lapse;

B. the application may be approved by the designee of the board if the application is complete and all requirements have been fulfilled;

C. verification of licensure in all states where the applicant holds or has held a license to practice podiatry, or other health care profession; verification must be sent directly to the board office from the other state(s) and must attest to the status, issue date, license number, and other information contained in the form;

D. the board required reports from the national practitioners data bank, or other national reporting organization, and the federation of podiatric medical boards disciplinary data bank if the applicant is currently licensed, or has previously been licensed as a podiatric physician in another state;

E. no podiatric physician shall reactivate or resume their podiatric practice until his or her lapsed license is reinstated and a new license is issued;

F. upon receipt of a completed application, including all required documentation and fees, the designee of the board will review and may approve the application. The results of the background check must either indicate no negative findings, or if there are negative findings, those findings will be considered by the board. The board may formally accept the approval of the application at the next scheduled meeting.

~~[16.21.10.9 NMAC - Rp, 16.21.10.9 NMAC 5/3/2019; 16.10.10.9 NMAC - Rp, 16.21.10.9 NMAC --/--/----~~

[16.21.10.10] REINSTATEMENT FOR LICENSEES WHO PRACTICE AS MEDICAL OFFICERS IN THE UNITED STATES SERVICE: Licensed podiatric physicians who practice podiatry in the uniformed services may reinstate their expired New Mexico license within three months after the termination of such service without payment of any renewal, late or reinstatement fees as per the Podiatry Act, Subsection C of Section 61-8-10 NMSA 1978. Individuals using this option must notify the board prior to the expiration date of their license that they will not renew until the time they terminate their uniformed service practice.

[16.21.10.10 NMAC - Rp, 16.21.10.10 NMAC 5/3/2019; 16.10.10.10 NMAC – Rp, 16.21.10.10 NMAC --/--/----]

HISTORY of 16.21.10 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:

Rule VI, Renewal of License, filed 7/21/1980;

Rule VI, Renewal of License, filed 8/18/1989.

History of the Repealed Material:

Rule VI, Renewal of License (filed 8/18/1989), repealed 10/15/2004.

16.21.10 NMAC, Podiatric physicians - Lapse of License and Reinstatement filed 9/15/2004, Repealed effective 5/3/2019.

Other History:

That applicable portion of Rule VI, Renewal of License (filed 8/18/1989) was replaced by 16.21.10 NMAC, Lapse of License and Reinstatement, effective 10/15/2004.

16.21.10 NMAC, Podiatric physicians - Lapse of License and Reinstatement filed 9/15/2004 was replaced by

16.21.10 NMAC, Podiatric physicians - Lapse of License and Reinstatement effective 5/3/2019.

TITLE 16 — OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER [21]10 — [PODIATRISTS] MEDICINE AND SURGERY PRACTITIONERS
PART 11 — DISCIPLINARY PROCEEDINGS

~~[16.21.11.1]16.10.11.1 — ISSUING AGENCY: [Regulation and Licensing Department, Board of Podiatry.] New Mexico Medical Board hereafter called the board, with the recommendations of the podiatry advisory committee, hereafter called the committee.~~

~~[16.21.11.1 NMAC — Rp, 16.21.11.1 NMAC 5/3/2019]~~

~~[16.21.11.2]16.10.11.2 — SCOPE: The provisions of Part 11 apply to all active license holders and applicants for licensure. These provisions may also be of interest to anyone who may wish to file a complaint against a podiatrist licensed by the board.~~

~~[16.21.11.2 NMAC — Rp, 16.21.11.2 NMAC 5/3/2019; 16.10.11.2 NMAC — Rp, 16.21.11.2 NMAC — / / —]~~

~~[16.21.11.3]16.10.11.3 — STATUTORY AUTHORITY: [This rule is promulgated pursuant to the Podiatry Act, 61-8-6 NMSA 1978, 61-8-11 NMSA 1978, and 61-8-13 NMSA 1978]. Podiatry Act, Section 61-8-11 through 61-8-16 NMSA and the Medical Practice Act, Sections 61-6-1 through 61-6-35 NMSA 1978~~

~~[16.21.11.3 NMAC — Rp, 16.21.11.3 NMAC 5/3/2019; 16.10.11.3 NMAC — Rp, 16.21.11.3 NMAC — / / —]~~

~~[16.21.11.4]16.10.11.4 — DURATION: Permanent.~~

~~[16.21.11.4 NMAC — Rp, 16.21.11.4 NMAC 5/3/2019; 16.10.11.4 NMAC — Rp, 16.21.11.4 NMAC — / / —]~~

~~[16.21.11.5]16.10.11.5 — EFFECTIVE DATE: [May 3, 2019] — / / —, unless a different date is cited at the end of a section.~~

~~[16.21.11.5 NMAC — Rp, 16.21.11.5 NMAC 5/3/2019; 16.10.11.5 NMAC — Rp, 16.21.11.5 NMAC — / / —]~~

~~[16.21.11.6]16.10.11.6 — OBJECTIVE: To establish the procedures for filing complaints against licensees, the disciplinary actions available to the board, the authority to issue investigative subpoenas and to define conduct that constitutes incompetent or unprofessional practice.~~

~~[16.21.11.6 NMAC — Rp, 16.21.11.6 NMAC 5/3/2019; 16.10.11.6 NMAC — Rp, 16.21.11.6 NMAC — / / —]~~

~~[16.21.11.7]16.10.11.7 — DEFINITIONS: [RESERVED]~~

~~[16.10.11.7 NMAC — Rp, 16.21.11.7 NMAC — / / —]~~

~~[16.21.11.8]16.10.11.8 — COMPLAINTS: Disciplinary proceedings may be instituted by the sworn complaint of any person, including members of the board, and committee. The complaint will be reviewed by the board and any subsequent disciplinary action shall conform with the Uniform Licensing Act, Sections 61-1-1 *et. seq.*, NMSA 1978.~~

~~——— A. — No member of the board and committee or any investigators or representatives appointed by the board shall bear liability or be subject to civil damages or criminal prosecutions for any action undertaken or performed within the proper functions of the board.~~

~~——— B. — No person or legal entity providing information to the board whether as a report, a complaint or testimony, shall be subject to civil damages or criminal prosecutions.~~

~~——— C. — All written and oral communications made by any person to the board or the committee relating to actual or potential disciplinary action, which includes complaints made to the board, shall be confidential communications and are not public records for the purposes of the Public Records Act.~~

~~——— D. — Information contained in compliance files is public information and subject to disclosure following formal disciplinary proceedings.~~

~~[16.21.11.8 NMAC — Rp, 16.21.11.8 NMAC 5/3/2019; 16.10.11.8 NMAC — Rp, 16.21.11.8 NMAC — / / —]~~

~~[16.21.11.9]16.10.11.9 — ACTIONS: The board may take any action authorized by the [Podiatry Act, Section 61-8-1 *et. seq.*, NMSA 1978] Podiatry Act, Section 61-8-11 through 61-8-16 NMSA and the Medical Practice Act,~~

~~Sections 61-6-1 through 61-6-35 NMSA 1978 and the Uniform Licensing Act, 61-1-1 *et. seq.* NMSA 1978 if the board determines that a licensee has violated any of the provisions of the Podiatry Act, the rules, or the Impaired Health Care Provider Act, 61-7-1 NMSA 1978]~~

~~[16.21.11.9 NMAC — Rp, 16.21.11.9 NMAC 5/3/2019; 16.10.11.9 NMAC — Rp, 16.21.11.9 NMAC — / / —]~~

~~[16.21.11.10]~~16.10.11.10 **SUSPENSION, REVOCATION OR REFUSAL OF A LICENSE:** For the purpose of the ~~[Podiatry Act, Section 61-8.11.10 NMSA 1978 of, the following may apply]~~ Podiatry Act, Section 61-8-11 through 61-8-16 NMSA and the Medical Practice Act, Sections 61-6-1 through 61-6-35 NMSA 1978, and the Uniform Licensing Act, 61-1-1 et. seq. NMSA 1978,

~~A.~~ "Gross negligence" or "gross incompetency" means, but shall not be limited to, a significant departure from the prevailing standard of care in treating patients, or any act or omission by a podiatrist such as to indicate a willful act or injury to the patient, or such incompetence on the part of the podiatrist as to render the podiatrist unfit to hold himself out to the public as a licensed podiatrist.

~~B.~~ "Unprofessional conduct" means, but is not limited to:

~~(1)~~ performing, or holding oneself out as able to perform, professional services beyond the scope of one's license and field or fields of competence as established by education, experience, training, or any combination thereof; this includes, but is not limited to, the use of any instrument or device in a manner that is not in accordance with the customary standards and practices of the profession;

~~(2)~~ practicing beyond the scope of practice of a podiatrist as defined by the Podiatry Act, Section 61-8-1 NMSA 1978, or board rule;

~~(3)~~ failure of a podiatrist to comply with the following advertising guidelines:

~~(a)~~ shall not advertise in a false, fraudulent or misleading manner;

~~(b)~~ shall include in the advertisement the podiatrist's name or medical group name, address and telephone number;

~~(4)~~ the making of false or misleading statement in communication with patients or potential patients;

~~(5)~~ the use of misleading or deceptive titles or designations in a name or title of a podiatric practice, including the unauthorized advertisement of a specialty designation;

~~(6)~~ failure to release to a patient copies of that patient's records and x rays, and willful violations of a patient's right to confidentiality;

~~(7)~~ disqualifying felony criminal conviction, defined below in Section C of this part;

~~(8)~~ impersonating another person licensed to practice podiatry or permitting or allowing any person to use his license or certificate of registration;

~~(9)~~ deliberate and willful failure to reveal, at the request of the board, the incompetent, dishonest, or corrupt practices of another podiatrist licensed or applying for licensure by the board;

~~(10)~~ accept rebates, or split fees or commissions from any source associated with the service rendered to a patient; provided, however, the sharing of profits in a professional partnership, association, HMO, or similar association shall not be construed as fee-splitting;

~~(11)~~ injudicious prescribing, administration, or dispensing of any drug or medicine;

~~(12)~~ sexual misconduct;

~~(13)~~ the use of a false, fraudulent or deceptive statement in any document connected with the practice of podiatry;

~~(14)~~ the falsifying of medical records, whether or not for personal gain;

~~(15)~~ any intentional conduct or practice which is harmful or dangerous to the health of the patient;

~~(16)~~ fraud, deceit or misrepresentation in any application for licensure, renewal or reinstatement [application];

~~(17)~~ obtaining or attempting to obtain a license through fraud, misrepresentation, or other dishonesty;

~~(18)~~ cheating on an examination for licensure;

~~(19)~~ violation of any order of the board, including any probation order;

~~(20)~~ treating patients when the podiatrist is under the influence of alcohol, illegal drugs, or injudicious use of prescription medications;

~~(i)~~ the habitual indulgence in the use of narcotics, alcohol or other substances that impair the intellect and judgement of the licensee;

~~(21)~~ failure to report to the board the involuntary surrender of a license to practice in another state, or involuntary surrender of membership on any medical staff or in any podiatric or professional association or society, in lieu of, and while under disciplinary investigation by any authority;

~~(22)~~ willful abandonment of a patient;

~~(23)~~ has failed to furnish the board, its investigators or its representatives with information requested by the board or the committee in the course of an official investigation;

~~_____ (24) _____ breach of ethical standards, an inquiry into which the board will begin by reference to the code of ethics of the American podiatric medical association.~~

~~C. _____ "Disqualifying Criminal Conviction" has the same meaning as defined in Podiatry Act, Section 61-8-11 NMSA and the Medical Practice Act, Sections 61-6-1 through 61-6-35 NMSA 1978.~~

~~(1) _____ Convictions for any of the following felony offenses, or their equivalents in any other jurisdiction, are disqualifying criminal conviction that may disqualify an applicant from receiving or retaining a license issued by the board:~~

- ~~_____ (a) _____ homicide or manslaughter;~~
- ~~_____ (b) _____ trafficking, or trafficking a controlled substance;~~
- ~~_____ (c) _____ kidnapping, false imprisonment, aggravated assault or aggravated battery;~~
- ~~_____ (d) _____ rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, or other related felony sexual offenses;~~
- ~~_____ (e) _____ crimes involving adult abuse, neglect or financial exploitation;~~
- ~~_____ (f) _____ crimes involving child abuse or neglect;~~
- ~~_____ (g) _____ crimes involving robbery, larceny, extortion, burglary, bribery, fraud, forgery, embezzlement, credit card fraud, or receiving stolen property;~~
- ~~_____ (h) _____ practicing medicine without a license;~~
- ~~_____ (i) _____ failure to comply with a proclamation of the governor; or~~
- ~~_____ (j) _____ an attempt, solicitation, or conspiracy involving any of the felonies in this subsection.~~

~~_____ (2) _____ The board shall not consider the fact of a criminal conviction as part of an application for licensure unless the conviction in question is one of the disqualifying criminal convictions listed in this subsection.~~

~~_____ (3) _____ The board shall not deny, suspend or revoke a license on the sole basis of a criminal conviction unless the conviction in question is one of the disqualifying criminal convictions listed in this subsection.~~

~~_____ (4) _____ 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 Podiatry 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 disqualifying criminal convictions listed in the subsection.~~

~~_____ (5) _____ In connection with an application for licensure, the board shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:~~

- ~~_____ (a) _____ an arrest not followed by a valid conviction;~~
- ~~_____ (b) _____ a conviction that has been sealed, dismissed, expunged or pardoned;~~
- ~~_____ (c) _____ a juvenile adjudication; or~~
- ~~_____ (d) _____ a conviction for any crime other than the disqualifying criminal convictions~~

~~listed in this subsection.~~

~~[16.21.11.10 NMAC Rp, 16.21.11.10 NMAC 5/3/2019, A, 04/23/2022; 16.10.11.10 NMAC Rp, 16.21.11.10 NMAC / - -]~~

~~**16.10.11.11 OFFENSES AND PENALTIES:** Each of the following acts committed by any person constitutes a misdemeanor punishable upon conviction by a fine of not less than one hundred dollars (\$100) or more than ten thousand dollars (\$10,000) or imprisonment not to exceed one year, or both:~~

~~A. _____ Practicing or attempting to practice podiatry without a current valid license issued by the board;~~

~~B. _____ Obtaining registrations under the Podiatry Act and the Medical Practice Act by false or untrue statements to the board or by presenting a fraudulent diploma or license to the board;~~

~~C. _____ Swearing falsely or giving a false affidavit in any proceeding before the board~~

~~D. _____ Advertising or using any designation, diploma or certificate tending to imply that one is a practitioner of podiatry, including the use of the words "chiroprapist", "podiatrist", "podiatric physician", "M.Cp", "D.S.C.", "D.M.P.", "foot specialist", "foot corrections", "foot culturist", "foot practipedist", "foot doctor" or words of similar import, unless one holds a license or is exempted under the provisions of the Podiatry Act; or~~

~~E. _____ Practicing podiatry during any period of time in which one's license has been revoked or suspended as provided in the Podiatry Act or the Medical Practice Act.~~

~~[16.10.11.11 NMAC N, - / - -]~~

~~**[16.21.11.11]16.10.11.12 COMPLAINT COMMITTEE:** The chair of the board shall appoint at least one member of the board to serve on the complaint committee along with the board's compliance liaison. A complaint~~

committee shall review each complaint charging a licensed podiatrist with unprofessional conduct or other violations under the Podiatry Act.

~~A. The complaint committee may refer complaints to other board members or experts in the field for a determination of merit.~~

~~B. Upon completion of an investigation, the complaint committee shall submit its recommendations to the board.~~

~~C. The complaint committee, on behalf of the board, may issue investigative subpoenas. Failure to comply with an investigative subpoena may result in the board seeking an order from the district court directing the subject of the investigative subpoena to comply.~~

~~[16.21.11.11 NMAC - N, 5/3/2019; 16.10.11.12 NMAC - Rp, Rn, 16.21.11.11 NMAC - / / -]~~

~~[16.21.11.12]16.10.11.13 INVESTIGATIVE SUBPOENAS: The board designee of the board is authorized to issue investigative subpoenas prior to the issuance of a notice of contemplated action and to employ experts with regard to pending investigations.~~

~~[16.21.11.12 NMAC - Rp, 16.21.11.11 NMAC 5/3/2019; 16.10.11.13 NMAC - Rp, Rn, 16.21.11.12 NMAC - / / -]~~

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~~[16.21.11.13]16.10.11.14 DELEGATION OF AUTHORITY: The authority of the [New Mexico board of podiatry] New Mexico Medical Board to issue a notice of contemplated action against any licensee/registrant or applicant for licensure/registration whose name appears on the certified list issued by the New Mexico department of human services, as provided in Sections 40-5A-1 to -13 NMSA-1978, and to refer cases in which notices of contemplated action have been issued for administrative prosecution, is delegated to the administrator of the board. This section shall be not be construed to deprive the board of its authority and power to issue a notice of contemplated action for any apparent violation of the Parental Responsibility Act, and to refer any such case for administrative prosecution.~~

~~[16.21.11.13 NMAC - Rp, 16.21.11.12 NMAC 5/3/2019; 16.10.11.14 NMAC - Rp, Rn, 16.21.11.13 NMAC - / / -]~~

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HISTORY of 16.21.11 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:

Rule VIII, Dishonest or Unprofessional Conduct Defined, filed 7/21/1980;

Rule X, Gross Malpractice Defined, filed 7/21/1980;

Rule XV, Complaints and Disciplinary Proceedings, filed 1/28/1991.

History of the Repealed Material:

Rule VIII, Dishonest or Unprofessional Conduct Defined (filed 7/21/1980); Rule X, Gross Malpractice Defined (filed 7/21/1980); and Rule XV, Complaints and Disciplinary Proceedings (filed 1/28/1991) all repealed 10/15/2004. 16.21.11 NMAC, Podiatrists - Disciplinary Proceedings filed 9/15/2004, Repealed effective 5/3/2019.

Other History:

Those applicable portions of Rule VIII, Dishonest Or Unprofessional Conduct Defined (filed 7/21/1980); Rule X, Gross Malpractice Defined (filed 7/21/1980); and Rule XV, Complaints and Disciplinary Proceedings (filed 1/28/1991) were replaced by 16.21.11 NMAC, Disciplinary Proceedings, effective 10/15/2004.

16.21.11 NMAC, Podiatrists - Disciplinary Proceedings filed 9/15/2004 was replaced by 16.21.11 NMAC, Podiatrists - Disciplinary Proceedings effective 5/3/2019.

~~TITLE 16 — OCCUPATIONAL AND PROFESSIONAL LICENSING~~
~~CHAPTER [21]10 — [PODIATRISTS] MEDICINE AND SURGERY PRACTITIONERS~~
~~PART 12 — MANAGEMENT OF MEDICAL RECORDS~~
~~[16.10.12 NMAC — Rp, Rn, 16.21.10 — / / —]~~

~~[16.21.12.1]16.10.12.1 — ISSUING AGENCY: [Regulation and Licensing Department, Board of Podiatry hereafter called the board]. New Mexico Medical Board hereafter called the board, with the recommendations of the podiatry advisory committee, hereafter called the committee.~~
~~[16.21.12.1 NMAC — Rp, 16.21.12.1 NMAC 5/3/2019; 16.10.12.1 NMAC — Rp, 16.21.12.1 NMAC — / / —]~~

~~[16.21.12.2]16.10.12.2 — SCOPE: This part governs the use management of medical records that are created and maintained as part of the practice of a podiatrist who has physical possession or ownership of the records.~~
~~[16.21.12.2 NMAC — Rp, 16.21.12.2 NMAC 5/3/2019; 16.10.12.2 NMAC — Rp, 16.21.12.2 NMAC — / / —]~~

~~[16.21.12.3]16.10.12.3 — STATUTORY AUTHORITY: These rules are promulgated pursuant to and in accordance with the [Podiatry Act, Section 61-8-9 NMSA 1978] Podiatry Act, Section 61-8-15 NMSA and the Medical Practice Act, Sections 61-6-1 through 61-6-35 NMSA 1978.~~
~~[16.21.12.3 NMAC — Rp, 16.21.12.3 NMAC 5/3/2019; 16.10.12.3 NMAC — Rp, 16.21.12.3 NMAC — / / —]~~

~~[16.21.12.4]16.10.12.4 — DURATION: Permanent.~~
~~[16.21.12.4 NMAC — Rp, 16.21.12.4 NMAC 5/3/2019; 16.10.12.4 NMAC — Rp, 16.21.12.4 NMAC — / / —]~~

~~[16.21.12.5]16.10.12.5 — EFFECTIVE DATE: [May 3, 2019] — / / — unless a later date is cited at the end of a section.~~
~~[16.21.12.5 NMAC — Rp, 16.21.12.5 NMAC 5/3/2019; 16.10.12.5 NMAC — Rp, 16.21.12.5 NMAC — / / —]~~

~~[16.21.12.6]16.10.12.6 — OBJECTIVE: This part establishes requirements and procedures for management of medical records.~~
~~[16.21.12.6 NMAC — Rp, 16.21.12.6 NMAC 5/3/2019; 16.10.12.6 NMAC — Rp, 16.21.12.6 NMAC — / / —]~~

~~[16.21.12.7]16.10.12.7 — DEFINITIONS: "Medical record" means all information maintained by a podiatrist relating to the past, present or future physical health or condition of a patient, and for the provision of health care to a patient. This information includes, but is not limited to, the podiatrist's notes, reports, summaries, x-rays, laboratory and other diagnostic test results. A patient's complete medical record includes information generated and maintained by the podiatrist, as well as information provided to the podiatrist by the patient, by any other podiatrist who has consulted with or treated the patient, and other information acquired by the health care provider about the patient in connection with the provision of health care to the patient.~~
~~[16.21.12.7 NMAC — Rp, 16.21.12.7 5/3/2019; 16.10.12.7 NMAC — Rp, 16.21.12.7 NMAC — / / —]~~

~~[16.21.12.8]16.10.12.8 — RELEASE OF MEDICAL RECORDS: Podiatrists must provide copies of medical records to a patient or to another podiatrist when legally requested to do so. This should occur with a minimum of disruption in the continuity and quality of medical care being provided to the patient. If the medical records are the property of a separate and independent organization, the podiatrist should act as the patient's advocate and work to facilitate the patient's request for records.~~

~~A. Medical records may not be withheld because an account is overdue or a bill for treatment, medical records, or other services is owed.~~

~~B. A reasonable cost-based charge may be made for the cost of duplicating and mailing medical records. A reasonable charge is \$1.00 per page for the first 25 pages, and \$0.10 per page thereafter. Patients may be charged the actual cost of reproduction for electronic records and record formats other than paper, such as x-rays. The board will review the reasonable charge periodically. Podiatrists charging for the cost of reproduction of medical records shall give consideration to the ethical and professional duties owed to other podiatrists and their patients.~~

~~[16.21.12.8 NMAC — Rp, 16.21.12.8 NMAC 5/3/2019; 16.10.12.8 NMAC — Rp, 16.21.12.8 NMAC — / / —]~~

~~[16.21.12.9]16.10.12.9 — CLOSING, SELLING, RELOCATING OR LEAVING A PRACTICE: Due care should be taken when closing or departing from a practice to ensure a smooth transition from the current podiatrist~~

to the new treating podiatrist. This should occur with a minimum of disruption in the continuity and quality of medical care being provided to the patient. Whenever possible, notification of patients is the responsibility of the current treating podiatrist.

~~_____ A. _____ Active patients and patients seen within the previous three years must be notified at least 30 days before closing, selling, relocating or leaving a practice.~~

~~_____ B. _____ Whenever possible, patients should be notified within at least 30 days after the death of their podiatrist.~~

~~_____ C. _____ Notification may be satisfied using any of the following methods:~~

~~_____ (1) _____ by placing a notice in at least one newspaper in the local practice area; notice should advise patients where their medical records will be stored; notice should include any pertinent information the patient may need for obtaining or transferring the records, including the name, mailing address and telephone number of a contact person with access to the stored records; notification should run a minimum of two times per month for three months to reach a maximum number of patients; or~~

~~_____ (2) _____ by written or electronic mail; or~~

~~_____ (3) _____ by individual correspondence to the patient's last known physical or electronic mail address.~~

~~_____ D. _____ Notification should include:~~

~~_____ (1) _____ responsible entity/agent name of contact to obtain records or request transfer of records, telephone number and mailing address;~~

~~_____ (2) _____ how the records can be obtained or transferred;~~

~~_____ (3) _____ how long the records will be maintained before they are destroyed; and~~

~~_____ (4) _____ cost of recovering/transferring records.~~

~~_____ E. _____ A podiatrist or podiatrist group should not withhold patient lists or other information from a departing podiatrist that is necessary for notification of patients.~~

~~_____ F. _____ Patients of a podiatrist who leaves a group practice must be notified the podiatrist is leaving, notified of the podiatrist's new address and offered the opportunity to have their medical records transferred to the departing podiatrist at their new practice.~~

~~_____ G. _____ When a practice is sold, all active patients must be notified that the podiatrist is transferring the practice to another podiatrist or entity who will retain custody of their records and that at their written request the records (or copies) will be sent to another podiatrist or entity of their choice.~~

~~[16.21.12.9 NMAC Rp, 16.21.12.9 NMAC 5/3/2019; 16.10.12.9 NMAC - / - / -]~~

16.21.12.10 16.10.12.10 RETENTION, MAINTENANCE AND DESTRUCTION OF MEDICAL RECORDS:

~~_____ A. _____ Improper management of medical records, including failure to maintain timely, accurate, legible and complete medical records constitutes unprofessional conduct under the board's rules adopted pursuant to Subsection H of 61-8-11 NMSA 1978. Podiatric physicians must maintain and make available upon request a written copy of their policy or their employer's policy for medical record retention, maintenance and destruction.~~

~~_____ B. _____ Written medical record policy shall include:~~

~~_____ (1) _____ responsible entity/agent name of contact to obtain records or request transfer of records, telephone number and mailing address;~~

~~_____ (2) _____ how the records can be obtained or transferred;~~

~~_____ (3) _____ how long the records will be maintained before they are destroyed; and~~

~~_____ (4) _____ cost of obtaining copies of records, and of recovering records/transferring records.~~

~~_____ C. _____ Electronic medical record policy shall include:~~

~~_____ (1) _____ responsible entity/agent name of contact to obtain records or request transfer of records, telephone number and mailing address;~~

~~_____ (2) _____ how the records can be obtained or transferred;~~

~~_____ (3) _____ how long the records will be maintained before destroyed;~~

~~_____ (4) _____ a data backup plan, disaster recovery plan and storage which ensures retrievability into reasonably usable form on a timely basis upon any request; and~~

~~_____ (5) _____ transfer of data via electronic file with appropriate safeguards to ensure patient confidentiality.~~

~~_____ D. _____ Podiatric physicians must retain medical records that they own for at least seven years. Medical records for patients who are minors must be retained for at least two years beyond the date that the patient is 18 years old.~~

~~_____ E. _____ Pediatric physicians shall retain medical billing information for at least two years after the date of last treatment.~~

~~_____ F. _____ A log must be kept of all charts destroyed, including the patient's name and date of record destruction.~~

~~_____ G. _____ If conversion of hard copies of medical records occurs to electronic format, the hard copy shall be retained by the physician for a minimum of 30 days after electronic transfer has occurred.~~

~~_____ H. _____ Destruction of medical records must be such that confidentiality is maintained. Records must be destroyed by shredding, incinerating (where permitted) or by other method of permanent destruction, including purging of medical records from a computer hard drive, server hard drive or other computer media or disk in accordance with existing practices for data deletion then available.~~

~~[16.21.12.10 NMAC Re, 16.21.12.10 NMAC 5/3/2019; 16.10.12.10 NMAC Re, 16.21.12.10 NMAC --/--/---]~~

History of 16.21.12 NMAC: [RESERVED]

History of the Repealed Material:

16.21.12 NMAC, Podiatrists—Management of Medical Records filed 6/14/2007, Repealed effective 5/3/2019.

Other History:

16.21.12 NMAC, Podiatrists—Management of Medical Records filed 6/14/2007 was replaced by 16.21.12 NMAC, Podiatrists—Management of Medical Records filed 6/14/2007 effective 5/3/2019.

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 3 RADIATION PROTECTION
PART 20 MEDICAL IMAGING AND RADIATION THERAPY LICENSURE

Radiologic technologist or **“radiation therapy technologist”** means a medical imaging or radiation therapy professional licensed by the department in one or more of the imaging modalities

Applicants will be issued one or more New Mexico medical imaging or radiation therapy license based on the applicant’s credentialing status with at least one of the following medical imaging or radiation therapy credentialing organizations: • American Registry for Diagnostic Medical Sonography (ARDMS) • American Registry of Magnetic Resonance Imaging (ARMRIT) • American Registry of Radiologic Technologists (ARRT) • Cardiac Credentialing International (CCI) • Nuclear Medicine Technologist Certification Board (NMTCB)

Active Certifying and Registering Credentialing Organizations :ARDMS ID# ARRT ID# ARMRIT ID# CCI ID# NMTCB ID#

“Supervision” means responsibility for and control of quality, radiation safety, and protection and technical aspects of the application of ionizing and non-ionizing radiation to human beings for diagnostic or therapeutic purposes.

(1) **“direct supervision”** means the medical imaging or radiation therapy procedure is provided under the direction and control of a person authorized to provide supervision and the person’s physical presence must be present in the office suite or building and immediately available to furnish assistance and direction throughout the performance of the procedure. It does not mean that the supervisor must be present in the room when the procedure is performed.

(2) **“indirect supervision”** or **“general supervision”** means the medical imaging or radiation therapy procedure is provided under the direction and control of a person authorized to provide supervision, but the person’s presence is not required during the performance of the procedure. The training of the non-physician personnel and the maintenance of the necessary equipment and supplies are the continuing responsibility of the person authorized to provide supervision.

20.3.20.200 APPROVED EDUCATIONAL PROGRAMS:

A. Approved program for a medical imaging or radiation therapy license: An approved program for medical imaging or radiation therapy includes:

(1) an educational program in a medical imaging or radiation therapy modality that is programmatically accredited by an accreditation agency recognized by the USDE or the CHEA and also recognized by the board pursuant to 20.3.20.220 NMAC; or

(2) an educational program in a medical imaging or radiation therapy modality that is in the process of preparing for programmatic accreditation by an accreditation agency recognized by the USDE or CHEA and also recognized by the board pursuant to

20.3.20.220 NMAC. This programmatic accreditation by an accreditation agency must be attained within five years of the effective date of this section or within five years of the establishment of a new educational program.

B. Approved program for a limited practice in radiography license: A limited radiography program shall be reviewed by the MIRTAC and approved by the board before enrolling students into the educational program. Prior to approval of the educational program, the MIRTAC will consider if the program includes the necessary didactic and clinical education to prepare students for the state examination for a limited practice in radiography license prior to submitting its recommendations to the board. Before enrolling students or offering courses, including clinical instruction, a limited radiography program shall submit an application to the department with supporting documentation to show compliance with this section and alignment with national educational accreditation standards. No fee is required for the application and, if all requirements are met, the department shall issue a letter to the educational program confirming compliance with this section.

20.3.20.220 RECOGNIZED PROGRAMMATIC ACCREDITATION ORGANIZATIONS:

A. Programmatic accreditation. To be recognized by the board, an educational program accreditation agency must:

- (1) be recognized by the USDE or CHEA; and
- (2) provide programmatic accreditation for the medical imaging or radiation therapy modality offered by the educational program.

B. Recognized programmatic accreditation organizations. Medical imaging or radiation therapy programmatic accreditation agencies recognized by the board include:

- (1) CAAHEP;
- (2) JRCERT; and
- (3) JRCNMT.

[20.3.20.220 NMAC - N, 9/25/2018]

B. Statutory exceptions. Pursuant to the act, a medical imaging license is not required for:

- (1) a licensed practitioner;
- (2) a student under the supervision of a licensed practitioner or under the direct supervision of a licensed medical imaging or radiation therapy professional licensed in the modality and subspecialty in which the student is performing the procedure;
- (3) a health care practitioner licensed or certified by an independent board as defined by the act that has been approved by the board as provided in Subsection C of this section; or
- (4) a registered nurse or certified nurse-midwife performing ultrasound procedures: provided that the registered nurse or certified nurse-midwife has documented demonstration of competency within the registered nurse's scope of practice in compliance with board of nursing rules or certified nurse-midwife's scope of practice in compliance with department of health rules. A registered nurse or certified nurse-midwife shall not perform diagnostic ultrasound examinations or ionizing procedures, including radiography, radiation therapy, nuclear medicine or a non-ionizing magnetic resonance procedure, unless licensed by

the department as medical imaging professional or radiation therapist professional. A registered nurse or a certified nurse-midwife may perform ultrasound procedures limited to a focused imaging target. A focused imaging target includes, but is not limited to:

- (a) identification of an anatomical landmark or blood vessel;
- (b) assessment of presence or absence of fluid in a body cavity;
- (c) assessment of fetal presentation or heartbeat; or
- (d) assessment of foreign body position or location.

C. An independent board or state regulatory body may submit an application for approval of their medical imaging certification and examination program to the MIRTAC for review.

(1) The MIRTAC shall consider whether the medical imaging and certification examination program adequately ensures the appropriate education, training, and clinical experience while ensuring patient health and safety and shall make a written recommendation to the board.

(2) The board may approve or deny an application based on whether or not it finds adequate evidence that the certification and examination program ensures appropriate education, training, and clinical experience while ensuring health and patient safety.

(3) The independent board or state regulatory body shall reapply to the board for re-approval if substantive changes to the certification and examination program are made subsequent to the board's approval.

20.3.20.101 SCOPE OF PRACTICE:

A. General provisions.

(1) A licensee's scope of practice is determined based upon the licensee's education, certification, and state and federal law.

(2) The following are the different scopes of practice for a licensee that will be recognized by the department:

(a) Radiography - the current version of the American society of radiologic technologists radiography practice standards;

(b) Radiation therapy - the current version of the American society of radiologic technologists radiation therapy practice standards;

(c) Nuclear medicine technology - the current version of the American society of radiologic technologists nuclear medicine practice standards or society of nuclear medicine and molecular imaging scope of practice for nuclear medicine technologist;

(d) Magnetic resonance technology - the current version of the American society of radiologic technologists magnetic resonance practice standards;

(e) Radiologist assistant - the current version of the American society of radiologic technologists radiologist assistant practice standards;

(f) Sonography - the current version of the American society of radiologic technologists sonography practice standards or the society of diagnostic medical sonography scope of practice and clinical standards for the diagnostic medical sonographer;

(g) Limited practice of radiography license or certificate of limited practice - the current version of the American society of radiologic technologists limited x-ray machine operator practice standards; or

(h) Computed Tomography-the current version of the American society of radiologic technologists computer tomography practice standards and the Society of Nuclear Medicine and Molecular Imaging.

B. Radiologist assistant. A radiologist assistant shall practice under the indirect supervision of a radiologist and shall not interpret images, render diagnoses, or prescribe medications or therapies.

[20.3.20.101 NMAC - N, 9/25/2018; A, 04/19/2022]

New Mexico Register / Volume XXXIV, Issue 24 / December 19, 2023

NOTICE OF PUBLIC RULE HEARING

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Join Zoom Meeting

<https://us02web.zoom.us/j/83140102469?pwd=M1diTzRtZmNiNUkxR1ltNzBkNG1SQTO9>

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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 and HB83.

The statutory authorization. Medical Practice Act Sections 61-6-1 through 61-6-35 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 January 31, 2024. 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;

16.21.1 NMAC through 16.21.12 – Podiatric Licensure Rules

As a general summary, the entirety of the podiatric licensure rules will be transferred to the New Mexico Medical Board for regulation of podiatric physicians in New Mexico. Other changes to the rules include changing the title of podiatrist to podiatric physician; create a podiatry advisory committee; change reciprocity requirements and change licensure renewal periods from one year to two years.



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New Mexico Medical Board Rule Hearing Notice

Agency:

New Mexico Medical Board

Purpose:

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Rule Complete Copy :

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

How to submit Comments:

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@nmmb.nm.gov

(<mailto:AmandaL.Quintana@nmmb.nm.gov>). All written comments must be received no later than 3:00 p.m. (MDT) on January 31, 2024. All written comments will be posted to the agency website within (3) three business days.

When are comments due:

1/31/2024 3:00 PM

Hearing Date:

2/2/2024 9:00 AM

Public Hearing Location:

Physical Hearing Location is 2055 South Pacheco Street, Bldg. 400, Santa Fe, NM 87505. 2/2/2024 (9:00 AM -10:00 AM)

How to participate:

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Corrections:

Not available

Rule Explanatory Statement:

Not available

Related New Mexico Register Publications:

Not available

For any additional information or questions concerning this rule making or posting please contact:

Amanda Quintana

amandal.quintana@nmmb.nm.gov

505-476-7220

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Journal: December 23, 2023



SENT VIA EMAIL

January 22, 2024

New Mexico Medical Board
c/o Amanda Quintana
2055 South Pacheco Street, Bldg 400
Santa Fe, NM 87505

Sent to AmandaL.Quintana@nmmmb.nm.gov

RE: Proposed Amendments – 16.10.2 NMAC – Physicians: Licensure Requirements

To New Mexico Medical Board members:

On behalf of our 47 New Mexico hospital members and the thousands of physicians they employ, the New Mexico Hospital Association submits this letter in support of the proposed amendments to 16.10.2 NMAC - Physicians: Physicians Licensure Requirements that were noticed in the December 19, 2023-edition of the New Mexico Register. The proposed rule does not speak to the process that will occur after an expedited license is issued and it may be beneficial to include that information on the Board's website so applicants, potential employers, and third parties know what to expect during that time.

We appreciate the Board's willingness to collaborate with and seek input from us throughout this rulemaking process and for your patience and dedication to drafting proposed rules that implement the changes to the Medical Practice and Uniform Licensing Acts. We are hopeful that these proposed rules, if adopted, will positively impact our members' physician recruitment efforts, and continue to protect the public safety of New Mexicans seeking care from the dedicated physicians serving our state.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Troy Clark'.

Troy Clark
President and CEO



January 26, 2024

Amanda Quintana
New Mexico Medical Board
2055 South Pacheco Street, Bldg. 400
Santa Fe, New Mexico 87505
AmandaL.Quintana@state.nm.us

**Re: New Mexico Medical Society's Comments on the New Mexico Medical Board's
Proposed Amendments to 16.10.2 NMAC – Physicians: Licensure Requirements.**

Dear Ms. Quintana and Members of the New Mexico Medical Board,

On behalf of its physician members from around New Mexico, the New Mexico Medical Society supports the New Mexico Medical Board's proposed amendments to 16.10.2 NMAC. NMMS also thanks the Board for its willingness to engage in a robust discussion regarding the amendments, which included a significant amount of stakeholder engagement. NMMS is confident that the Board's proposed amendments to 16.10.2 NMAC will benefit New Mexico's ability to recruit physicians and increase access to high quality care.

Sincerely,


Annie Jung,
NMMS Executive Director

Sincerely,

/s/ Todd Williams

Todd Williams, MD
NMMS President, 2023-2024

Pursuant to the New Mexico Medical Practice Act, NMSA 1978 § 61-6-1(B), the New Mexico Medical Board was created to implement and enforce the laws and rules of the Act in the interest of public health, safety, and welfare and to protect the public from the improper, unprofessional, incompetent, and unlawful practice of medicine.



Subject:

Applicants for licensure in New Mexico, holding active license in other state(s) and actively practicing, who submitted applications to the Board to obtain licensure and what subsequent issues were found by Board staff during the processing of these applications.

Time Period:

January 2020 to Present

1. Physician Applicant – August 2020

Applicant (surgeon) whose two work verifications from hospitals indicated physician's clinical privileges were recently summarily suspended and ultimately terminated for clinical competency issues. Surgeon refused to undergo clinical competency evaluation ordered by the hospitals. Held two active licenses in other states. Wanted to work locum tenens in NM as surgeon.

2. Physician Applicant – February 2020

Applicant (internal medicine/infectious disease) with 5 NPDB Reports filed by 5 different hospitals showing indefinite suspension of applicant's clinical privileges in 2019. Suspension based on professional conduct which undermined patient safety, and medical record documentation deficiencies. Offered corrective action plan by hospitals in lieu of suspension but applicant did not agree with plan. Issues remained unresolved at time of application. Physician wanted to practice TM in NM.

3. Physician Applicant – February 2020

Applicant (Family Medicine) whose criminal background check shows multiple recent arrests and criminal charges for domestic battery, domestic battery by strangulation, both felonies – 2017; domestic battery with substantial bodily harm, felony – 2018. Did not disclose on application submitted to Board. Held active license in another state. Wanted to work in rural area of NM.

4. Physician Applicant – June 2020

Applicant (Urology) whose criminal background check showed 2019 arrest and criminal charges for robbery, battery, criminal mischief and false name provided to law enforcement officer. NPDB Report showed 2019 report filed by Hospital for indefinite suspension of clinical privileges

for alcohol use. Applicant refused to sign a monitoring contract with a PHP as recommended by another state licensing entity. Still held license to practice in other state. Did not disclose any of this information on his application. Had already been offered and signed contract to work locum tenens at Hospital.

5. Physician Applicant – May 2020

Applicant (OB/GYN) whose PGT Verification indicated he was placed on leave with no clinical responsibilities from PGT Program – 2019 – for violating the sexual violence and misconduct policy of program. Finished residency but not eligible for rehire at hospital. Held licenses to practice in two states. Wanted to work locum tenens in NM.

6. Physician Applicant – February 2021

Applicant whose work verifications indicated discipline/investigations/exhibiting unprofessional behavior that affected patient care. Held full unrestricted license in other state. Wanted to practice in rural area of state.

7. Physician Applicant - August 2021

Applicant (surgeon) with NPDB/AMA Reports revealed history of adverse actions taken by other state medical boards based on recent competency issues. When applicant applied, he had unrestricted licenses but there was recent continued pattern of incompetency, large number of malpractice payouts and did not reveal any of the adverse actions on his application to NMMB. Wanted to practice in rural area of state.

8. Physician Applicant - April 2022

Applicant (surgeon) whose criminal background check showed recent assault arrests/criminal charges and who had lengthy number of published news articles in other states reporting on applicant's conduct. Work verifications indicated terminated from multiple locum tenens positions based on conduct. Various licensing board actions including revocations but had unrestricted license to practice in one state. Wanted to work in rural area of state.

9. Physician Applicant - July 2022

Applicant (Surgeon) whose work verifications indicated he was placed on corrective action plan by employer for inappropriate conduct/touching female employees – clinical privileges suspended. Had extensive history of prior corrective action plans for inappropriate and unprofessional behavior with hospital staff. Would not provide NMMB staff with any documentation/information. Wanted to perform surgery in rural area of NM. Held active license in one other state.

10. Physician Applicant – July 2022

Applicant (Surgeon) who had already accepted position at rural NM hospital when he applied. NPDB Reports indicated that applicant had resigned while under investigation from medical staff of out of state hospital while under investigation for professional competency issues and patient abandonment issues. Did not disclose any information on his application but held an active license in other state at time of application.

11. Physician Applicant – June 2022

Applicant (Primary Care) with lengthy history of adverse licensure actions based on competency and failure to cooperate with Board Orders. Had been evaluated for clinical skills three times in recent history with remediation/supervision required but failed to comply with terms and conditions of those board orders. Held active licenses in 2 other states at time of application. History of past licensure actions and work verifications showing incompetency to practice and disruptive behavior.

12. Reinstatement Physician Applicant – August 2023

Applicant (Family Medicine) wanting to practice TM medicine out of her house in NM. NPDB Report showed voluntary relinquishment of DEA Registration based on applicant's controlled substance prescribing irregularities and violations. Practicing unlicensed in NM while prescribing controlled substances to out of state "patients" who the DEA deemed as drug seekers; prescribing for non-medical reasons. Holds active licensure in one other state.

13. Physician Applicant – August 2023

Applicant (Internal Medicine) with recent criminal conviction of an offense within the practice of medicine (Fraudulent billing to Federal Health Programs); obtaining a fee by fraud, misrepresentation on application. Holds active license in other states.

14. Physician Applicant – August 2023

Applicant (anesthesiologist) with serious substance abuse issues that had caused physical impairment and deemed not safe to practice medicine by two physician health programs. Still held active license in another state.

15. Physician Applicant – June 2023

Applicant (Surgeon) whose NPDB Reports indicated recent history of adverse action taken on clinical privileges based on incompetency to practice and conduct issues. Did not cooperate with NMMB during application process and investigation. Held active license in other state at time of application although it was under investigation (which he did not disclose on app).

16. Physician Applicant - June 2023

Applicant (Surgeon) whose NPDB Reports indicated applicant had just voluntarily surrendered his clinical privileges while under investigation by Hospital employer based on applicant's failure to comply with a corrective action plan and FPPE implemented because of patient care concerns and patient death. Held active license to practice in other state.

17. Physician Applicant – October 2023

Applicant (Dermatologist) whose licensure verification indicated he had retired his license while under investigation by other state licensing board and work verification showing action taken by healthcare clinic based on incompetency. Resigned from medical staff while under investigation for competency issues. Holds active license in other state, although state board is allowing him to go "inactive" (non-reportable/non-disciplinary) at this time.

West's New Mexico Statutes Annotated

Chapter 61. Professional and Occupational Licenses (Refs & Annos)

Article 6. Medicine and Surgery (Refs & Annos)

N. M. S. A. 1978, § 61-6-13

§ 61-6-13. Physician expedited licensure

Effective: July 1, 2023

Currentness

A. ~~The board may grant an expedited license~~ to a qualified applicant licensed in another state or territory of the United States, District of Columbia or a foreign country ~~as provided in Section 61-6-13, NMSA 1978~~. The board shall process the application as soon as practicable but no later than thirty days after the out-of-state medical or osteopathic physician files an application for expedited licensure accompanied by any required fee if the applicant:

- (1) holds a license that is current and in good standing issued by another licensing jurisdiction approved by the board; and
- (2) has practiced medicine or osteopathy as a licensed physician for at least three years.

B. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require a person to pass an examination before applying for license renewal.

C. The board by rule shall 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. The board shall post the lists of disapproved and approved licensing jurisdictions on the board's website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted. The board may require fingerprints and other information necessary for a state and national criminal background check.

Credits

L. 1989, Ch. 269, § 9; L. 1994, Ch. 80, § 6; L. 2001, Ch. 96, § 3, eff. April 2, 2001; L. 2003, Ch. 19, § 13; L. 2005, Ch. 1, § 2, eff. April 5, 2005; L. 2021, Ch. 54, § 32, eff. June 18, 2021; L. 2021, Ch. 70, § 8, eff. June 18, 2021; L. 2023, Ch. 1, § 28, eff. July 1, 2023.

Notes of Decisions (2)

NMSA 1978, § 61-6-13, NM ST § 61-6-13

Current through effective July 1, 2023 of the 2023 First Regular Session of the 56th Legislature (2023). The First Regular Session convened January 12, 2023 and adjourned March 18, 2023. The General Effective date is June 16, 2023.

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list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The lists shall be reviewed by the board annually to determine if amendments to the rule are warranted.

Credits

Added by L. 2016, Ch. 19, § 1, eff. July 1, 2016. Amended by L. 2020, Ch. 6, § 4, eff. July 1, 2020; L. 2022, Ch. 39, § 7, eff. May 18, 2022; L. 2023, Ch. 190, § 22, eff. July 1, 2023.

NMSA 1978, § 61-1-31.1, NM ST § 61-1-31.1

Current through effective July 1, 2023 of the 2023 First Regular Session of the 56th Legislature (2023). The First Regular Session convened January 12, 2023 and adjourned March 18, 2023. The General Effective date is June 16, 2023.

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MEMORANDUM

To: Amanda Quintana
Interim Executive Director

From: Margaret McLean
Special Counsel

Date: January 31, 2024

Re: Amendments to Rules after HB 384 / Licensing 16.10.2 NMAC / Consideration
of Public Comments Submitted by New Mexico Hospital Association and New
Mexico Medical Society

Hearing set: February 2, 2024

BACKGROUND

HB 384 was passed into law, effective July 1, 2023. HB 384 amended certain provisions of the Uniform Licensing Act (ULA) and the Medical Practice Act (MPA). The NMMB was not consulted or contacted before the introduction, passage and enactment of HB 384. HB 384 impacts various licensed practitioners including physicians, interior designers, veterinarians, social workers and private investigators. Because of the amendments to the ULA and MPA, the licensing rules promulgated by the NMMB must be amended to correspond with HB 384.

Proposed rules for 16.10.2 NMAC (Physicians: Licensing Requirements) were published. Public comment received before the public hearing included responses from the New Mexico Hospital Association (NMHA) and the New Mexico Medical Society (NMMS). Each letter was admitted during the public hearing held on November 10, 2023 for the amendments to 16.10.2 NMAC. *See* Ex. 7 (NMHA Letter dated November 6, 2023); Ex. 9 (NMMS Letter dated November 8, 2023). Both letters focused on the issuance of an expedited license in Section 61-1-31.1 and Section 61-6-13. Representatives from NMHA and NMSS attended the public hearing on November 10, 2023; no spokesperson for NMHA or NMMS voiced any comments at the November 10, 2023 meeting. *See* Ex. 13 (Attendance Sheet).

Before the public meeting, certain members of the NMMB received information about possible threatened litigation *if* the proposed rule amendments to 16.10.2 NMAC were approved and adopted by the NMMB at the November 10, 2023 meeting. In light of this information, the NMMB went into a closed session under exceptions to NMSA 1978, Section 10-5-1(H)(as amended).

The proposed amendments to 16.10.2 NMAC were tabled by the NMMB at the November 10, 2023 meeting, with the direction to staff to fully consider and respond to the disputed amendments included in the public comments submitted by the NMHA and NMMS. In light of the directive, a request was made to NMHA and NMMS to submit the suggested and

desired amendments to 16.10.2 NMAC. A joint response from NMHA and NMMS was submitted to the NMMB on November 15, 2023.

A working group was formed and met to discuss the NMHA and NMMS response and requested revisions on November 17, 2023. This working group consisted of members of the NMMB (not a quorum) and NMMB staff. A list of members of the working group is available. The working group carefully considered the NMHA and NMMS joint response for each proposed amendment to 16.10.2 NMAC, with reference to applicable statutes in the Uniform Licensing Act (ULA) and the Medical Practice Act (MPA), and with the understanding the final consideration and resolution of any amendments to 16.10.2 NMAC were exclusively within the judgment and discretion of the NMMB.

This memorandum details the discussion and response to the joint letter and the proposed amendments suggested by the NMHA and NMMS. Additional amendments are suggested by the working group to track HB 384 and clarify the expedited license application, processing, issuance and expiration.

After the reconsideration of the rule and the comments of the NMHA and NMMS and republication of the proposed changes to 16.10.2 NMAC by the NMMB, the rule hearing is scheduled for February 2, 2024. Before the hearing, a letter dated January 22, 2024 was received from the NMHA (Troy Clark, President and CEO) and a letter dated January 26, 2024 was received from the NMMS (Todd Williams, President and Annie Jung, Executive Director). Both the NMHA and the NMMS support the proposed amendments to 16.10.2 NMAC, as proposed for the February 2, 2024 hearing.

**SPECIFIC RESPONSES TO PROPOSED AND SUGGESTED AMENDMENTS TO
16.10.2.10 MADE BY NMHA AND NMMS**

SUGGESTED AMENDMENTS BY NMMB

1. 16.10.2.10(A) Expedited Licensure

Page 4, line 43.

Agree with suggested edits proposed by NMHA and NMMS.

Page 4, line 43 now states:

“Prerequisites for expedited licensure: Each applicant for an expedited license to practice as a”

2. 16.10.2.10(B) Required documentation for all expedited licensure applicants:

Page 5, lines 1 and 2.

Agree with suggested edits proposed by NMHA and NMMS.

Page 5, lines 1 and 2, now state:

“B. Required documentation for all expedited licensure applicants: Each applicant for an expedited license must submit the required fees as specified in 16.10.9.8 NMAC and the following documentation....”

3. 16.10.2.10(B)(1) Required documentation for all expedited licensure applicants:

Page 5, lines 3 and 4.

Agree with suggested edits proposed by NMHA and NMMS.

Page 5, lines 3 and 4, now state:

“(1) a completed signed application that has been verified as including all required documentation and includes a passport-quality photo taken within the previous six months;...”

Note:

“Verify” means “to establish the truth, accuracy or reality of.” *See* Merriam Webster Dictionary. “Implies the establishing of correspondence of actual facts or details with those proposed or guessed at.” *Id.* Synonyms for “verify” include confirm, corroborate, substantiate, authenticate, and validate. *Id. See also* Black’s Law Dictionary (11th ed. 2019)(defining “verified copy” as a “certified copy”: a duplicate of an original, official document certified as an exact reproduction).

4. C. Expedited Licensure Process:

Page 5, lines 31-34: **Agree** with suggested edits by NMHA and NMMS.

Page 5, line 34: **Delete** phrase: “or other health care profession” based on statute.

Section 61-6-13 is titled “Physician expedited licensure” and applies only to an out-of-state medical or osteopathic physician. Section 61-6-13(A). The use of the phrase “or other health care profession” is not contemplated by Section 61-6-13.

Page 5, lines 36-39 (following “1978.”): **Agree** with suggested edits by NMHA and NMMS.

5. C. Expedited Licensure Process

Page 5, lines 40-45.

Delete entire subsection (C)(2). Unnecessary and confusing plus contrary to HB 384. An application may be submitted for an expedited license. Any second or subsequent application will be submitted and processed as another type of license described in 16.10.2.8 NMAC.

Add: “(C)(2) One expedited license to be issued. If an applicant requests an expedited license, an expedited license application is submitted, and an expedited license is issued, any additional and subsequent application for a license shall be a separate and independent application for a medical license or other type of license in 16.10.2.8 NMAC.”

Add: “(C)(3). An expedited license may be extended by the board beyond the twelve months for extenuating circumstances shown.”

Add: “(C)(4). An expedited license may not be renewed.”

Comment:

Tracking Section 61-1-31.1 Expedited licensure; issuance.

Specifically, Section 61-1-31.1(B): “A board may allow for the initial term of an expedited license to be greater than one year by board rule or may extend an expedited license upon a showing of extenuating circumstances.”

An expedited license application, processing and issuance will be one separate and independent event. Only one expedited license application, processing and issuance will be permitted. An expedited license may be extended based on extenuating circumstances. An expedited license is not subject to renewal.

Any other type of license application, process and issuance, for example, a medical license, will be a separate and independent event. Section 61-1-31.1(C).

6. (C) and now (D). Expedited license expiration.

Page 5, lines 46-50.

Agree with NMHA and NMMS and indicate first sentence to read:

“Expedited licenses shall be valid for no more than twelve (12) months from the date of issuance.”

Delete remaining text at Page 5, lines 47-50, as extraneous and confusing; contrary to one year for an expedited license stated in Section 61-1-31.1(B).

7. D. Continuous practice.

Page 5, lines 51-52 and page 6, lines 1-2.

Agree with the suggested edits by NMHA and NMMS. Entire section to be deleted.

Recommendation:

Suggest and advocate for allowing the assessment of continuous service for a stated period of time and competency of an applicant for an expedited license and amending Section 61-6-13, Physician expedited licensure.

8. E. Competency examination

Page 6, lines 3-4.

Agree with NMHA and NMMS. Striking language at Page 6, lines 3-4.

A competency examination for the issuance of an expedited license is not included in Section 61-1-31.1.

9. E. Procedure for incomplete application.

Page 6, lines 5-11.

Page 6, line 6: **Reject** proposed language suggested by NMHA and NMMS: “within ten (10) business days from the date the...”

The proposed change suggested by the NMHA and NMMS from thirty (30) days to ten (10) business days is inconsistent with and contrary to Section 61-1-31.1(A): “A board that issues an occupational or professional license shall, as soon as practicable **but no later than thirty days** after the out-of-state licensee files a complete application for any expedited license accompanied by any required fees:....”

And,

Section 61-1-3.5 “Incomplete application; notice; expiration” also applies. Section 61-1-3.5 provides for thirty (30) days from the date the application is received by the NMMSB to notify the applicant and an opportunity to cure the incomplete application.

10. F. Initial medical license expiration.

Page 6, lines 12-14.

Reject suggested edits by NMHA and NMMS.

The term “initial license” is specifically defined in Section 61-1-2(D): “Initial license” means the first regular license received from a board for a person who has not been previously licensed[.]”

The suggested language by NMHA and NMMS is confusing and contrary to Section 61-1-2(D) and Section 61-6-13.

Section 61-1-31.1(B) provides:

“An expedited license is a **one-year provisional license**” that confers the same rights, privileges and responsibilities as regular licenses issued by a board[.]”

Section 61-1-2(I) provides a “regular license” “means a license **that is not issued as a temporary or provisional license.**” Applying this statutory definition, an expedited license is not a regular license.

Proposed 16.10.2.8 NMAC adds a definition of “expedited license” to mean “a one-year provisional license that confers the same rights, privileges and responsibilities as a medical license issued by the board.” This rule amendment was not challenged or disputed by the NMHA and/or NMMS.

The suggested language is also inconsistent with proposed 16.10.2.10(D) NMAC regarding expiration of an expedited license.

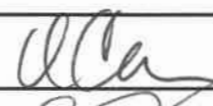
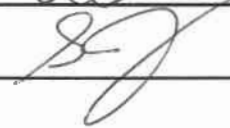
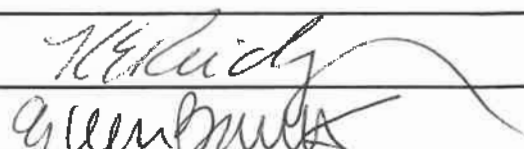
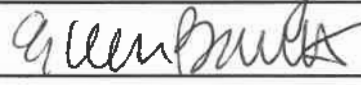
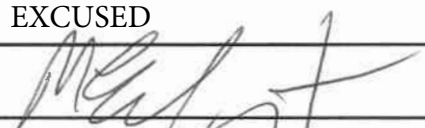
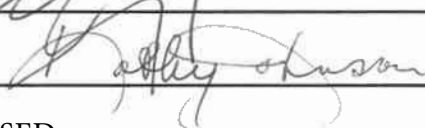
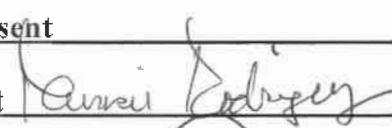
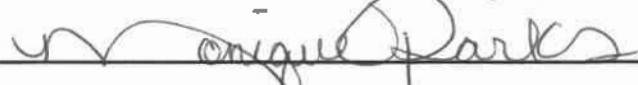
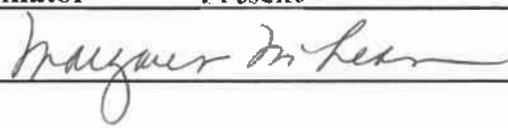
OTHER COMMENTS

1. Policy. Should New Mexico join the Interstate Medical Licensure Compact (IMLCC) for a uniform approach to licensing physicians from other jurisdictions? As of July 2023, forty-one (41) states belong to the Interstate Medical Licensure Compact. See www.imlcc.org (accessed Nov. 20, 2023). Proposed legislation needed.
2. Policy. Should the NMMB seek additional standards for the application, processing and issuance of an expedited license such as a verification of continuous service and, if requested, a competency examination? Proposed legislation needed.

Board Meeting/Rule Hearing

Friday February 2, 2024

Start 8:30 End 12:10

Name/Entity	Signature
Karen Carson, Chair	
Steven Jenkusky, MD	
Peter Beaudette, MD Zoom	
Bradley Scoggins, DO Zoom	
Kristin Reidy, DO	
Eileen Barrett, MD	
Eric Anderson, MD Zoom EXCUSED	
Mark Unverzagt, MD	
Kathy Johnson, PA	
Buffie Saavedra Zoom EXCUSED	
Amanda Quintana, Executive Director Present	
Debbie Dieterich, Investigations Manager Present	
Monique Parks, Licensing Manager	
Samantha Breen, Quality Assurance Manager NOT PRESENT	
Ann Pacheco, Administrative Assistant	
Lori Arevalo, Compliance Coordinator Present	
Margret Mclean, Attorney	
Johanna Cox, Admin Prosecutor	
Vanessa Montoya-Investigator	
David Dominguez, Investigator	
Guests: Thomas W. Banner	
Guests: Janet Simon Zoom	
Julia Ruetten NM Hospital Assoc. Zoom	
Annie Jung NM Medical Society Zoom	