

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING**  
**CHAPTER 10 MEDICINE AND SURGERY PRACTITIONERS**  
**PART 8 MEDICAL ETHICS**

**16.10.8.1 ISSUING AGENCY:** New Mexico Medical Board, hereafter called the board.  
[16.10.8.1 NMAC - Rp 16 NMAC 10.8.1, 7/15/2001; A, 1/10/2007]

**16.10.8.2 SCOPE:** This part applies to all applicants and licensees.  
[16.10.8.2 NMAC - Rp 16 NMAC 10.8.2, 7/15/2001]

**16.10.8.3 STATUTORY AUTHORITY:** These rules are promulgated pursuant to and in accordance with the Medical Practice Act, sections 61-6-1 through 61-6-35 NMSA 1978.  
[16.10.8.3 NMAC - Rp 16 NMAC 10.8.3, 7/15/2001]

**16.10.8.4 DURATION:** Permanent  
[16.10.8.4 NMAC - Rp 16 NMAC 10.8.4, 7/15/2001]

**16.10.8.5 EFFECTIVE DATE:** July 15, 2001 unless a later date is cited at the end of a section.  
[16.10.8.5 NMAC - Rp 16 NMAC 10.8.5, 7/15/2001]

**16.10.8.6 OBJECTIVE:** This part is concerned with aspects of medical ethics that includes a non-exclusive listing of acts that constitute unprofessional conduct and establishes rules for ethical conduct which govern certain special categories of medical practice by physicians and physician assistants, as defined herein.  
[16.10.8.6 NMAC - Rp 16 NMAC 10.8.6, 7/15/2001]

**16.10.8.7 DEFINITIONS:** Established physician-patient relationship means a relationship between a physician and a patient that is for the purpose of maintaining the patient's well-being. At a minimum, this relationship is established by an interactive encounter between patient and physician involving an appropriate history and physical and/or mental status examination sufficient to make a diagnosis and to provide, prescribe or recommend treatment, with the informed consent from the patient and availability of the physician or coverage for the patient for appropriate follow-up care. A medical record must be generated by the encounter.  
[16.10.8.7 NMAC - Rp 16 NMAC 10.8.7, 7/15/2001; A, 9/27/2007]

**16.10.8.8 UNPROFESSIONAL OR DISHONORABLE CONDUCT:** As defined in the Medical Practice Act, Section 61-6-15,D,(29), "unprofessional or dishonorable conduct" includes, but is not limited to, the following:

- A.** practicing medicine without an active license;
- B.** sexual misconduct, including sexual contact with patient surrogates, such as parents and legal guardians, that occurs concurrently with the physician-patient relationship;
- C.** violating a narcotic or drug law;
- D.** excessive prescribing or administering of drugs;
- E.** excessive treatment of patients;
- F.** impersonating an applicant in an examination or at a board interview;
- G.** making or signing false documents;
- H.** dishonesty;
- I.** deceptive or anonymous advertising;
- J.** improper use of a fictitious name;
- K.** violation of a term of a stipulation; or
- L.** prescribing, dispensing or administering drugs or medical supplies to a patient when there is no established physician-patient relationship, including prescribing over the internet or via other electronic means that is based solely on an on-line questionnaire; except for:
  - (1)** physicians and physician assistants on call for another practitioner, or responsible for another practitioner's patients in an established clinic or office, or acting as locum tenens where a physician-patient relationship has previously been established and documented in the practitioner's or clinic's record;
  - (2)** physicians and physician assistants in emergency room or urgent care settings;
  - (3)** prescriptions written to prepare a patient for special examination(s) or laboratory testing;
  - (4)** prescribing or dispensing for immunization programs;

(5) the provision of treatment for partners of patients with sexually transmitted diseases when this treatment is conducted in accordance with the expedited partner therapy guidelines and protocol published by the New Mexico department of health; and

(6) the provision of consultation, recommendation, or treatment during a face-to-face telehealth encounter online, using standard videoconferencing technology, where a medical history and informed consent are obtained and a medical record generated by the practitioner, and a physical examination is:

(a) recorded as appropriate by the practitioner, or a practitioner such as a physician, a physician or anesthesiologist assistant, or an advanced practice nurse, with the results communicated to the telehealth practitioner; or

(b) waived when a physical examination would not normally be part of a typical physical face-to-face encounter with the patient for the specific services being provided.

[16.10.8.8 NMAC - Rp 16 NMAC 10.8.8, 7/15/2001; A, 1/10/2007; A, 9/27/2007; A, 9/21/2009]

#### **16.10.8.9 DETERMINATION OF MEDICAL ETHICS:**

**A.** The board adopts the ethical standards set forth in the latest published version of the “code of medical ethics current opinions with annotations of the council on ethical and judicial affairs of the American medical association” or its successor publication (“code of medical ethics”).

**B.** The board reserves the right to impose discipline for breaches of medical ethics which may not be addressed in the “code of medical ethics”, but which are nevertheless sufficiently serious to bring the offending conduct within the meaning of Section 61-6-15,D,(29) NMSA 1978.

[16.10.8.9 NMAC - Rp 16 NMAC 10.8.8.1 & 10.8.8.2, 7/15/2001; A, 4/18/2002]

#### **HISTORY OF 16.10.8 NMAC:**

Pre-NMAC History: Material in this part was derived from that previously filed with the Commission of Public Records - State Records Center and Archives:

86-1, Medical Ethics, 2/5/1986.

Rule 16, Medical Ethics, 6/21/1993.

#### **NMAC History:**

16 NMAC 10.8, Medical Ethics, 3/5/1997.

#### **History of the Repealed Material:**

16 NMAC 10.8, Medical Ethics, 3/5/1997 - Repealed, 7/15/2001.