

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 10 MEDICINE AND SURGERY PRACTITIONERS
PART 4 CONTINUING MEDICAL EDUCATION

16.10.4.1 ISSUING AGENCY: New Mexico Medical Board, hereafter called the board.
[16.10.4.1 NMAC - Rp 16 NMAC 10.4.1, 4/18/02; A, 9/27/07]

16.10.4.2 SCOPE: This part applies to physicians licensed by the board.
[16.10.4.2 NMAC - Rp 16 NMAC 10.4.2, 4/18/02]

16.10.4.3 STATUTORY AUTHORITY: This part governs the practice of medicine in New Mexico and is promulgated pursuant to and in accordance with the Medical Practice Act, Section 61-6-21 NMSA 1978
[16.10.4.3 NMAC - Rp 16 NMAC 10.4.3, 4/18/02]

16.10.4.4 DURATION: Permanent
[16.10.4.4 NMAC - Rp 16 NMAC 10.4.4, 4/18/02]

16.10.4.5 EFFECTIVE DATE: April 18, 2002, unless a later date is cited at the end of a section.
[16.10.4.5 NMAC - Rp 16 NMAC 10.4.5, 4/18/02]

16.10.4.6 OBJECTIVE: This part establishes continuing education requirements for license renewal.
[16.10.4.6 NMAC - Rp 16 NMAC 10.4.6, 4/18/02]

16.10.4.7 DEFINITIONS:
 A. “AMA” means the American medical association.
 B. “CME” means continuing medical education.
 C. “ABMS” means American board of medical specialties.
[16.10.4.7 NMAC - N, 4/18/02; A, 9/27/07]

16.10.4.8 HOURS REQUIRED:
 A. Seventy-five hours of continuing medical education are required for all medical licenses during each triennial renewal cycle. CME may be earned at any time during the licensing period, July 1 through June 30 immediately preceding the triennial renewal date.
 B. One hour of required CME must be earned by reviewing the New Mexico Medical Practice Act and these board rules. Physicians must certify that they have completed this review at the time they submit their triennial renewal application.
 C. Continuing medical education is not required for federal emergency, telemedicine, postgraduate training, public service, temporary teaching or youth camp or school licenses.
 D. The five hours of CME in pain management continuing education set forth in Subsections A and B of Section 11 of 16.10.14 NMAC may apply toward the seventy-five hours required in Subsection A of this Part and may be included as part of the required CME hours in pain management in either the triennial cycle in which these hours are completed, or the triennial cycle immediately thereafter. Each subsequent triennial renewal cycle shall include five hours of CME hours in pain management.
[16.10.4.8 NMAC - Rp 16 NMAC 10.4.8, 4/18/02; A, 4/3/05; A, 9/27/07]

16.10.4.9 CREDIT HOURS: The board accepts one credit hour for every clock hour of participation in a CME activity.
[16.10.4.9 NMAC - N, 4/18/02]

16.10.4.10 ACCEPTABLE AS CME: The board will accept any of the following as fulfillment of CME requirements:
 A. the physician’s recognition award of the AMA PRA Category 1 Credit™,
 B. certificate of CME issued by any board or sub-board of the ABMS, or
 C. certification or re-certification by an ABMS approved specialty board during the renewal period.
[16.10.4.10 NMAC - N, 4/18/02; A, 9/27/07]

16.10.4.11 ALLOWED COURSES AND PROVIDERS: The following courses and activities are acceptable for CME credit:

A. AMA PRA Category 1 Credit™ Clinical courses, lectures or grand rounds certified by an accredited sponsor of the AMA physician's recognition award, **AMA PRA Category 1 Credit™** are acceptable for credit whether taken in an on-site format or taken using the internet.

B. NEW MEXICO SPECIFIC CME. Activities certified by the New Mexico medical society (NMMS) continuing medical education committee are acceptable for credit. Up to forty (40) credits in any three-year reporting period are allowed for participation in activities certified as New Mexico specific CME by the NMMS continuing education committee. New Mexico specific CME are issued by the NMMS for service on the New Mexico medical review commission and on the impaired physician committee.

C. POST GRADUATE EDUCATION. A maximum of seventy-five (75) credit hours in any three-year reporting period are allowed for participation in a postgraduate education program, which has been approved by the board or by the AMA liaison committee on graduate medical education. This category includes internships, residencies and fellowships.

D. ADVANCED DEGREES. Forty (40) credit hours are allowed for each full academic year of study toward an advanced degree in a medical field or a medically related field as approved by the board.

E. TEACHING. One credit hour is allowed for each hour of teaching medical students or physicians in a United States medical school, an approved internship or residency or for teaching in other programs approved by the board for a maximum of forty (40) credit hours in any three-year reporting period.

F. PHYSICIAN PRECEPTORS. A maximum of thirty (30) hours of credit during a three year reporting period is acceptable for licensed physicians who are acting as preceptors for students enrolled in an accredited medical or physician assistant school or as preceptors for students enrolled in a combined bachelor of arts and medical degree program.

G. PAPERS AND PUBLICATIONS. Ten (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. Material used in a paper or publication may be given credit one time. A maximum of thirty (30) hours credit may be claimed during each three-year reporting period.

H. ADVANCED LIFE SUPPORT. Credit may be claimed during each three-year reporting period for successful completion of ACLS (advanced cardiac life support), PALS (pediatric advanced life support), ATLS (advanced trauma life support), NALS (neonatal advanced life support), and ALSO (advanced life support in obstetrics) courses.

I. EXPERT REVIEW. Credit may be claimed by physicians who provide expert services by reviewing investigation cases for the board. A maximum of ten (10) credit hours in any three-year reporting period are allowed for providing expert review.

[16.10.4.11 NMAC - Rp 16 NMAC 10.4.8, 4/18/02; A, 4/3/05; A, 9/27/07; A, 1/2/08; A, 7/1/10; A, 9/22/11]

16.10.4.12 [Reserved]

[16.10.4.12 NMAC - N, 4/18/02; Repealed, 9/27/07]

16.10.4.13 VERIFICATION OF CME:

A. Each physician renewing a license shall attest that they have obtained the required hours of CME. The board shall select renewal applications for audit to verify completion of acceptable CME. The board may audit CME records at any time. CME records must be maintained by the licensee for one year following the renewal cycle in which they are earned.

B. The board, or a designee of the board, may offer any physician who is unable to provide required documentation upon request a settlement in lieu of initiating disciplinary action. Settlements may include a letter of reprimand and a \$500 fine, reportable to the healthcare integrity and protection data bank.

C. Any physician who fails to respond to a CME audit shall be considered in violation of Section 61-6-15.D(23) of the Medical Practice Act, failure to provide the board with information requested by the board. Potential sanctions include fines, letters of reprimand, or license suspension or revocation.

[16.10.4.13 NMAC - N, 4/18/02; A, 9/27/07]

16.10.4.14 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.
- [16.10.4.14 NMAC - N, 4/18/02]

16.10.4.15 EMERGENCY DEFERRAL: A physician unable to fulfill the CME requirements prior to the date of license expiration may apply to the board for an emergency deferral of the requirements by submitting a request in writing no later than July 1 of the renewal year. A designee of the board may grant a deferral of up to 90 days.

A. In case of illness or other documented circumstances, the board may grant an additional extension of time in which the necessary credits may be earned. The request must be made in writing prior to the end of the emergency deferral, and must be approved by the board.

B. A licensee practicing or residing outside the United States shall not be required to fulfill the CME requirements for the period of the absence. The board must be notified prior to license expiration that the licensee will be outside the US, including the period of the absence. Upon return to the US, the licensee shall complete the CME required for the years of practice within the US during the renewal cycle, or apply for an emergency deferral.

[16.10.4.15 NMAC - N, 4/18/02; A, 9/27/07]

HISTORY OF 16.10.4 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with State Records and Archives under:

NMBME Rule 79-13, Continuing Medical Education, filed 9-19-79

NMBME Rule 79-13, Continuing Medical Education, filed 10-4-79

BME Rule 5, Continuing Medical Education, filed 12-19-89

Rule 5, Continuing Medical Education, filed 5-5-92

Rule 5, Continuing Medical Education, filed 6-1-95

History of Repealed Material:

16 NMAC 10.4 Continuing Medical Education - Repealed 4/18/02

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 10 MEDICINE AND SURGERY PRACTITIONERS
PART 5 DISCIPLINARY POWER OF THE BOARD

16.10.5.1 ISSUING AGENCY: New Mexico Medical Board, hereafter called the board.
[16.10.5.1 NMAC - Rp 16 NMAC 10.5.1, 4/18/02]

16.10.5.2 SCOPE: This part applies to licensees and applicants for licensure.
[16.10.5.2 NMAC - Rp 16 NMAC 10.5.2, 4/18/02]

16.10.5.3 STATUTORY AUTHORITY: This part is promulgated pursuant to and in accordance with the Medical Practice Act, Sections 61-6-1 through 61-6-35 NMSA 1978, the Uniform Licensing Act, section 61-1-1 through 61-1-33 NMSA 1978, and the Impaired Health Care Provider Act, section 61-7-1 through 61-7-12 NMSA 1978.
[16.10.5.3 NMAC - Rp 16 NMAC 10.5.3, 4/18/02; A, 1/1/09]

16.10.5.4 DURATION: Permanent
[16.10.5.4 NMAC - Rp 16 NMAC 10.5.4, 4/18/02]

16.10.5.5 EFFECTIVE DATE: April 18, 2002, unless a later date at the end of a section.
[16.10.5.5 NMAC - Rp 16 NMAC 10.5.5, 4/18/02]

16.10.5.6 OBJECTIVE: This part establishes procedures for license denial, revocation of license, suspension of license, probation, censure and reprimand, fines, costs and stipulations.
[16.10.5.6 NMAC - Rp 16 NMAC 10.5.6, 4/18/02]

16.10.5.7 DEFINITIONS:

A. "License" means a document granting legal permission to a physician, a physician assistant, [or an] anesthesiologist assistant, genetic counselor, or a polysomnographic technologist to practice in the state of New Mexico.

B. "Licensee" means a physician, physician assistant, [or] anesthesiologist assistant, genetic counselor, or a polysomnographic technologist who has been granted permission to practice in the state of New Mexico.
[16.10.5.7 NMAC - Rp 16 NMAC 10.5.7, 4/18/02; A, 1/1/09]

16.10.5.8 DISCIPLINARY POWER OF THE BOARD: Pursuant to 61-6-5, 61-6-8, 61-6-15 and 61-7-8 NMSA, 1978, the board has the power to suspend or revoke a license, place a licensee on probation under such terms and conditions as the board deems necessary after a hearing or pursuant to a stipulation with a licensee. Further, under the Medical Practice Act the board has the power to deny a license application, to deny a license renewal, to censure, to reprimand or to fine a licensee.
[16.10.5.8 NMAC - Rp 16 NMAC 10.5.8, 4/18/02]

16.10.5.9 REVOCATION OF LICENSE:

A. Action prior to revocation. Prior to revoking any license for any violation of the Medical Practice Act, or the Impaired Health Care Provider Act, the board shall give the licensee written notice and an opportunity to request a hearing pursuant to the Uniform Licensing Act.

B. Terms of revocation. A licensee whose license is revoked may not practice in any manner under that license.

C. ~~[Relicensing after revocation]~~ Revocation under the Medical Practice Act. All revocations pursuant to the Medical Practice Act are permanent and no such license revoked shall be reinstated. Persons seeking licensure after revocation under the Medical Practice Act shall file a new application for licensure with the board, under the rules for new applicants~~[, only if permitted in the revocation order]~~.

D. Relicensing after revocation under the Impaired Health Care Provider Act. A physician or physician assistant whose license has been revoked pursuant to the Impaired Health Care Provider Act may petition for reinstatement pursuant to section 61-7-9 NMSA 1978.
[16.10.5.9 NMAC - Rp 16 NMAC 10.5.10, 4/18/02; A, 1/1/09]

16.10.5.10 SUSPENSION OF LICENSE.

A. Action prior to suspension. Except as provided in the Impaired Health Care Provider Act, or in a disciplinary order entered after a hearing, or pursuant to Subsection C of 16.10.5.15 NMAC below, prior to suspending any license, the board shall give the licensee written notice and an opportunity to request a hearing pursuant to the Uniform Licensing Act.

B. Terms of suspension. The board may suspend a license for either a specified period of time or indefinitely. A licensee whose license is suspended may not practice in any manner under that license during the period of suspension.

C. Reinstatement. Unless otherwise established by the board:

(1) If the board has suspended a license indefinitely, the licensee must petition the board for reinstatement. If reinstatement is initially denied, the licensee may petition for reinstatement on a yearly basis thereafter.

(2) If the board sets a date after which a license may be reinstated, the board will consider a petition for reinstatement only after that date. The licensee may petition for reinstatement on a yearly basis thereafter.

(3) A physician whose license has been suspended pursuant to the Impaired Health Care Provider Act may petition for reinstatement pursuant to 61-7-9 NMSA, 1978, if the physician can meet the statutory requirements. If the reinstatement is denied, the licensee may petition for reinstatement on a yearly basis thereafter.

[16.10.5.10 NMAC - Rp 16 NMAC 10.5.11, 4/18/02; A, 1/1/09]

16.10.5.11 PROBATION:

A. General. The board may stay any disciplinary action taken and place a licensee on probation with a requirement that the licensee comply with terms of probation. The board may also place a licensee on probation without taking other disciplinary action.

B. Terms of probation. The terms of the probation shall be set forth in writing. The licensee on probation may continue to practice under the license so long as the licensee complies with all terms of probation.

C. Violation of probation. If probation is granted and the terms of the probation are then violated, the board shall give the applicant written notice and an opportunity to request a hearing pursuant to the Uniform Licensing Act prior to taking further disciplinary action, unless the order of probation contains a provision for the summary suspension of the license.

[16.10.5.11 NMAC - Rp 16 NMAC 10.5.13, 4/18/02; A, 1/1/09]

16.10.5.12 CENSURE AND REPRIMAND: The board may issue a letter of censure or reprimand to a licensee for any *minor* violation of the Medical Practice Act~~[-If the board intends to issue a letter of censure or reprimand, the licensee shall be notified in writing]~~ pursuant to section 61-1-3 of the Uniform Licensing Act.

[16.10.5.12 NMAC - Rp 16 NMAC 10.5.14, 4/18/02]

16.10.5.13 FINES: The board may impose a fine on a licensee for each violation of the Medical Practice Act after giving the licensee written notice and an opportunity to request a hearing pursuant to the Uniform Licensing Act. If the licensee's action constitutes more than one violation of the Medical Practice Act, the board may impose a fine for each violation.

[16.10.5.13 NMAC - Rp 16 NMAC 10.5.15, 4/18/02; A, 1/1/09]

16.10.5.14 [Reserved]

[16.10.5.14 NMAC - Rp 16 NMAC 10.5.16, 4/18/02; - Repealed, 4/3/05]

16.10.5.15 STIPULATION:

A. Power to enter into stipulations. The board may come to an agreement and enter into a stipulation with a licensee at any time. In a stipulation, the parties may agree to any disciplinary or other action that the board is authorized to take by law.

B. Contents. The stipulation shall be in writing, shall contain the agreed upon restrictions on the licensee and shall be signed by the board and the licensee. The stipulation shall contain statements that the licensee:

(1) knows and understands the applicable statutory and regulatory provisions setting forth the authority and power of the board; and

(2) understands that entering into a stipulation regarding the case results in a waiver of the licensee's rights under the Uniform Licensing Act, the Medical Practice Act, or the Impaired Health Care Provider Act, as applicable, including the right to appeal;

C. Violation of a stipulation. The licensee and the board may agree that the board may take immediate action to suspend a license, as set forth in the stipulation, if the board has reasonable cause to believe that the stipulation has been violated, without the licensee being given an opportunity to request a hearing. In this case, the stipulation shall provide that the board shall give notice of the disciplinary action to the licensee at the last known address of the licensee pursuant to the provisions of the Uniform Licensing Act.

D. Costs. In all appropriate cases, the payment of costs of preparing the case, including reasonable prosecuting attorney's fees, may be negotiated as part of the stipulation.

[16.10.5.15 NMAC - Rp 16 NMAC 10.5.17, 4/18/02; A, 1/1/09]

16.10.5.16 SUMMARY SUSPENSION: This is a formal preliminary disciplinary action that immediately suspends a licensee's right to practice. The summary suspension remains in effect until a further order of the board is entered. The licensee has an opportunity for a full hearing before the board on the summary suspension.

A. The board may summarily suspend or restrict a license issued by the board without a hearing, simultaneously with, or at any time after, the issuance of a notice of contemplated action (NCA) and the initiation of proceedings for a hearing provided for under the Uniform Licensing Act on the NCA, if the board finds that evidence in its possession indicates that the licensee:

- (1) poses a clear and immediate danger to the public health and safety if the licensee continues to practice;
- (2) has been adjudged mentally incompetent by a final order or adjudication by a court of competent jurisdiction; or
- (3) has pled guilty to or been found guilty of any offense related to their practice or for any violent criminal offense in this state or a substantially equivalent criminal offense in another U.S. jurisdiction.

B. A licensee is not required to comply with a summary action until service of the action has been made personally or by certified mail, return receipt requested, at the licensee's last known address as shown in the board's records, or the licensee has actual knowledge of the order, whichever occurs first. The board's executive director may sign a summary suspension order that the board has authorized.

C. A licensee whose license is summarily suspended is entitled to a hearing before the board on the summary suspension order, pursuant to the Uniform Licensing Act, within fifteen (15) days from the date the licensee requests a hearing. This hearing request shall be in writing, addressed to the board, delivered by certified mail, return receipt requested.

[16.10.5.16 NMAC - N, 1/1/09]

HISTORY OF 16.10.5 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with State Records Center and Archives under:

Rule 7, Disciplinary Power of Board Over Physician Assistants, filed 06-21-93

BME Rule 7, Disciplinary Power of Board Over Physician Assistants filed 12-19-89

BME MD01-MD031, Board of Medical Examiners Model Disciplinary Order, filed 1-22-85

BME MDG1-MDG20, Manual of Disciplinary Guideline and Model Disciplinary Orders, filed 01-22-85.

History of Repealed Material:

16 NMAC 10.5, Disciplinary Power of the Board - Repealed 4/18/02

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 10 MEDICINE AND SURGERY PRACTITIONERS
PART 10 REPORT OF SETTLEMENTS, JUDGMENTS, ADVERSE ACTIONS AND
CREDENTIALING DISCREPANCIES

16.10.10.1 ISSUING AGENCY: New Mexico Medical Board, hereafter called the board.
[16.10.10.1 NMAC - Rp 16 NMAC 10.10.1, 7/15/01; A, 1/6/12]

16.10.10.2 SCOPE: This part applies to licensees and any entity that provides health care services and that follows a formal peer review process for the purpose of furthering quality health care.
[16.10.10.2 NMAC - Rp 16 NMAC 10.10.2, 7/15/01; A, 1/6/12]

16.10.10.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Health Care Quality Improvement Act of 1986, 42 U.S.C.A. Sections 11131-11152 and Sections 61-6-15(D) 21 and 61-6-16, NMSA 1978.
[16.10.10.3 NMAC - Rp 16 NMAC 10.10.3, 7/15/01; A, 8/6/04]

16.10.10.4 DURATION: Permanent
[16.10.10.4 NMAC - Rp 16 NMAC 10.10.4, 7/15/01]

16.10.10.5 EFFECTIVE DATE: July 15, 2001 unless a later date is cited at the end of a section.
[16.10.10.5 NMAC - Rp 16 NMAC 10.10.5, 7/15/01]

16.10.10.6 OBJECTIVE: This part provides requirements for health care entities to provide reports to the board of all malpractice payments made on behalf of licensees, and all actions adversely affecting licensing or clinical privileges of licensees. This part also provides requirements for licensees to report adverse actions that affect licensing or clinical privileges, or are taken by a governmental or law enforcement agency.
[16.10.10.6 NMAC - Rp 16 NMAC 10.10.6, 7/15/01; A, 8/6/04; A, 1/6/12]

16.10.10.7 DEFINITIONS:

A. “Adversely affecting” means reducing, restricting, suspending, revoking, denying, or failing to renew clinical privileges, or membership in a health care entity to include: terminating employment for cause, or without cause when based on incompetency or behavior affecting patient care and safety, or physician being allowed to resign rather than being terminated for such reasons. ~~[This does]~~ **These actions do** not include those instances in which a peer review entity requires supervision of a physician for purposes of evaluating that physician’s professional knowledge or ability.

B. “Clinical privileges” include privileges, membership on the medical staff, employment, and other circumstances under which a physician or physician assistant is permitted by a healthcare entity to furnish medical care.

C. “Termination of employment” includes the termination of employment by a healthcare entity for cause, or without cause if related to clinical competence or behavior impacting patient safety/care, or allowing resignation in lieu of termination for such reason.

D. “Health care entity” means:

(1) a hospital, HMO, a physician group or other health care institution that is licensed to provide health care services in New Mexico;

(2) an entity that provides health care services and that follows a formal peer review process for the purpose of furthering quality health care; or

(3) a professional society or a committee or agent thereof, of physicians or physician assistants or other licensed health care practitioners at the national, state or local level, that follows a formal peer review process for the purpose of furthering quality health care, including without limitation a health maintenance organization or other prepaid medical practice which is licensed or determined to be qualified by any state.

E. “Medical malpractice action or claim” means a written claim or demand for compensation based on the furnishing, or failure to furnish, health care services, and includes, without limitation, the filing of a cause of action, based on the law of tort, brought in any court of any state or the United States seeking monetary damages whether resulting in a settlement or in a judgment.

F. “Professional review action” means an action of a health care entity:

(1) taken in the course of professional review activity;
(2) based on the competence, conduct, or impairment of an individual physician or physician assistant or other health care practitioner which affects or could affect adversely the health or welfare of a patient or patients;
and,

(3) which adversely affects or may adversely affect the clinical privileges or membership in a professional society of the physician or physician assistant.

G. “Professional review activity” means an activity of a health care entity with respect to an individual physician or physician assistant:

(1) to determine whether the physician or physician assistant may have clinical privileges with respect to, or membership in, the entity;
(2) to determine the scope or conditions of such privileges or membership; or
(3) to change or modify such privileges or membership.

H. “Credentialing discrepancy” means, for the purposes of 16.10.10 NMAC, an error or omission in an application.

[16.10.10.7 NMAC - Rp 16 NMAC 10.10.7, 7/15/01; A, 1/6/12]

16.10.10.8 REPORTING OF MEDICAL MALPRACTICE PAYMENTS. Each person or entity, including an insurance company, which makes a payment under a policy of insurance, self-insurance or otherwise, in settlement of, or in whole or partial satisfaction of, a judgment in a malpractice action or claim must file a report with the board containing the information listed below.

A. such reports must be submitted to the board within thirty days of payment;
B. include at a minimum the name, license number, and social security number of the named physician or physician assistant;
C. the name and address of the person or entity making the payment;
D. name, title and telephone number of the official submitting the report on behalf of the entity; date or dates on which the act(s) or omission(s) giving rise to the claim occurred;
E. date of judgment or settlement;
F. amount paid, date of payment and whether payment is in satisfaction of a judgment or constitutes a settlement;
G. description of terms of the judgment or settlement and any conditions attached thereto, including terms of payment;
H. description of the alleged acts or omissions and injuries or illnesses upon which the action or claim is based; and,
I. the physician or physician assistant’s official addendum to the data bank report.

[16.10.10.8 NMAC - Rp 16 NMAC 10.10.8.1, 7/15/01; A, 1/6/12]

16.10.10.9 REPORTING OF ADVERSE ACTIONS ON CLINICAL PRIVILEGES.

A. ~~[Actions that must be reported by the health care entity:]~~ All health care entities and licensees shall report any actions adversely affecting the licensure of a licensee within thirty days of the date of such action by the health care entity. Such actions shall be reported by the health care entity include, but are not limited to:

(1) any professional review action that adversely affects the clinical privileges of a physician or physician assistant except as provided in Subsection C of this section;
(2) acceptance of the surrender of clinical privileges or any restriction of such privileges while the physician or physician assistant is under investigation by the entity relating to possible incompetency or improper professional conduct; or, in return for not conducting an investigation or proceeding;
(3) in the case of ~~[a professional society,]~~ any professional review action taken by a professional society [when it takes professional review action] which adversely affects the membership of a physician or physician assistant in the society;
(4) failure to complete medical records if the failure is related to the physician’s professional competence or conduct and adversely affects or could adversely affect a patient’s health or welfare;
(5) a positive drug test for illegal substances, alcohol or unprescribed medication and prescription medication not supported by appropriate diagnosis (if physician has voluntarily self reported to the New Mexico monitored treatment program (MTP), the board will not require name of physician, as it will be in a blind report from MTP).

B. Report contents. All adverse actions must:

(1) be reported to the board within thirty days of adverse action taken pursuant to Paragraphs (1) through (5) of Subsection A of this Section;

(2) include at a minimum the name, license number, and social security number of the physician or physician assistant; a description of the act(s) or omission(s) or other reasons for the action or for the surrender of privileges; action taken, date of the action and effective date of action; and,

(3) any physician or physician assistant's official addendum to the data bank report shall be reported.

C. The following actions do not require reporting to the board by a health care entity:

(1) actions based on the physician or physician assistant's association, or lack of association, with a professional society or association;

(2) actions based on fees, advertising, or other competitive acts intended to solicit or retain business;

(3) actions based on the physician or physician assistant's participation in prepaid group health plans;

(4) actions based on the physician or physician assistant's association with, supervision of, delegation of authority to, support for, training of, or participation in a private group practice; or

(5) any other matter that does not relate to the competence or professional conduct of a physician or physician assistant;

(6) failure to complete charts (except to the extent reportable under Paragraph (4) of Subsection A of this part), maintain insurance or perform other administrative obligations that results in a suspension of clinical privileges.

D. Any subsequent disposition of the initial action adversely affecting the licensee, regardless of whether such disposition is favorable, does not alter the requirement to report within thirty days.

[16.10.10.9 NMAC - Rp 16 NMAC 10.10.8.3, 7/15/01; A, 4/18/02; A, 1/6/12; A, 6/25/12]

16.10.10.10 REPORTING OF CREDENTIALING DISCREPANCIES. Any health care entity that has received information from a [physician or physician assistant] licensee where a discrepancy has been identified on an application or re-application that includes a signed attestation of accuracy, [must] shall report the discrepancy to the board within 90 days.

[16.10.10.10 NMAC - N, 7/15/01; A, 4/18/02]

16.10.10.11 SANCTIONS FOR FAILURE TO REPORT.

A. Medical malpractice payments. Any health care entity or person failing to report malpractice payments required by this rule shall be subject to a civil penalty not to exceed \$10,000.

B. Adverse actions. Any hospital, health care entity or professional review body failing to comply with the reporting requirements set forth in Section 9 of this part shall be subject to a civil penalty not to exceed \$10,000 and will be reported by the board to the data bank as required by 42 U.S.C. § 11133.

[16.10.10.11 NMAC - Rp 16 NMAC 10.10.8.2 & 10.10.8.5, 7/15/01; A, 1/6/12]

16.10.10.12 CONFIDENTIAL COMMUNICATIONS. Any information or reports submitted to the board pursuant to this regulation or 42 U.S.C.A. 11131-11152, as amended, shall be confidential and shall not be disclosed other than to the physician or physician assistant involved, or as otherwise authorized or required by law.

[16.10.10.12 NMAC - Rp 16 NMAC 10.10.8.7, 7/15/01]

16.10.10.13 LICENSEE REPORTING REQUIREMENTS.

A. Consistent with Section 61-6-15(D)(21) NMSA 1978, in addition to the reporting requirements in Sections [8, 9 and 10] 8 and 9 of this part, a licensee is required to report to the board any [adverse] action adversely affecting the licensee taken by: another licensing jurisdiction; a peer review body; a health care entity; a professional or medical society or association; a governmental agency; a law enforcement agency, including arrests; and any court for acts or conduct similar to acts or conduct that would constitute grounds for action under the Medical Practice Act. Reports shall be received by the board within [45] 30 days from the date the action occurs. For the purpose of this section, the "action occurs" on the date when the entities described in this Subsection have taken adverse action. Any [appeal] subsequent disposition of the initial action adversely affecting the licensee, regardless of whether such disposition is favorable, [of the adverse action] does not alter the requirement to report within [45] 30 days. In the case of an arrest, the arrest shall be reported within [45] 30 days of occurrence. In the case of adverse action taken by a peer review body, health care entity, or professional or medical society or association, refer to Section 9 of this part to determine what action must be reported.

B. Failure to report any adverse action shall constitute unprofessional or dishonorable conduct pursuant to Subsection D of Section 61-6-15 NMSA 1978 of the Medical Practice Act and shall be subject to any penalty that may be imposed pursuant to Section 61-6-15 NMSA 1978.
[16.10.10.13 NMAC - N, 8/6/04; A, 1/6/12; A, 6/25/12]

HISTORY OF 16.10.10 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:

Rule 16, Report of Settlements and Judgments and Adverse Action, 7/10/90

Rule 15, Report of Settlements and Judgments and Adverse Action, 6/21/93

NMAC History:

16 NMAC 10.15, Report of Settlements and Judgments and Adverse Action, 3/18/96

16 NMAC 10.10, Report of Settlements and Judgments and Adverse Action, 3/5/97

History of Repealed Material:

16 NMAC 10.10, Report of Settlements and Judgments and Adverse Action - Repealed 7/15/01

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 10 MEDICINE AND SURGERY PRACTITIONERS
PART 14 MANAGEMENT OF PAIN WITH CONTROLLED SUBSTANCES

16.10.14.1 ISSUING AGENCY: New Mexico Medical Board, hereafter called the board.
[16.10.14.1 NMAC - N, 1/20/03; A, 4/3/05]

16.10.14.2 SCOPE: This part applies to all New Mexico medical board licensees who hold a federal drug enforcement administration registration.
[16.10.14.2 NMAC - N, 1/20/03; A, 9/28/12]

16.10.14.3 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 and the Pain Relief Act, sections 24-2D-1 NMSA through 24-2D-6.
[16.10.14.3 NMAC - N, 1/20/03; A, 9/28/12]

16.10.14.4 DURATION: Permanent
[16.10.14.4 NMAC - N, 1/20/03]

16.10.14.5 EFFECTIVE DATE: January 20, 2003, unless a later date is cited at the end of a section.
[16.10.14.5 NMAC - N, 1/20/03]

16.10.14.6 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.
[16.10.14.6 NMAC - N, 1/20/03; A, 4/3/05]

16.10.14.7 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.

[16.10.14.7 NMAC - N, 1/20/03; A, 9/28/12]

16.10.14.8 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 Medical Practice Act or board rules.

[16.10.14.8 NMAC - N, 1/20/03; A, 4/3/05; A, 9/28/12]

16.10.14.9 PHYSICIAN, PHYSICIAN ASSISTANTS AND ANESTHESIOLOGIST ASSISTANTS

TREATED WITH OPIATES: Physicians, physician assistants or anesthesiologist assistants who have chronic pain and are being treated with opiates shall be evaluated by a pain clinic or, by an M.D. or D.O. 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.

[16.10.14.9 NMAC - N, 4/3/05; A, 9/28/12]

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

A. A health care practitioner 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 health care practitioner shall, before prescribing, ordering, administering or dispensing a controlled substance listed in Schedule II, III or IV, obtain a patient PMP report for the preceding 12 months when one of the following situations exists:

(1) the patient is a new patient of the practitioner, [except in the setting of urgent or emergent care,] in which situation a patient PMP report for the previous 12 months shall only be required when Schedules II, III, and IV drugs are prescribed for a period greater than 10 days; and

(2) during the continuous use of opioids by established patients a PMP shall be requested and reviewed a minimum of once every six months.

[16.10.14.10 NMAC - N, 9/28/12]

16.10.14.11 PAIN MANAGEMENT CONTINUING EDUCATION: This section applies to all New Mexico medical board licensees who hold a federal drug enforcement administration registration and licensure to prescribe opioids. Pursuant to the Pain Relief Act, in order to ensure that all such health care practitioners safely prescribe for pain management and harm reduction, the following rules shall apply.

A. **Immediate requirements effective November 1, 2012.** Between November 1, 2012 and no later than June 30, 2014, all New Mexico medical board licensees who hold a federal drug enforcement administration registration and licensure to prescribe opioids, shall complete no less than five continuing medical education hours in appropriate courses that shall include:

- (1) an understanding of the pharmacology and risks of 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 (16.10.14 NMAC).

The applicability of such courses toward fulfillment of the continuing medical education requirement is subject to medical board approval. Practitioners who have taken continuing medical education hours in these educational elements between July 1, 2011 and November 1, 2012, may apply those hours toward the required five continuing medical education hours described in this subsection.

B. **Triennial requirements for physicians.** Beginning with the July 1, 2014 triennial renewal date, as part of the 75 continuing medical education hours required during each triennial renewal cycle, all New Mexico medical board physician licensees who hold a federal drug enforcement administration registration and license to prescribe opioids, shall be required to complete and submit five continuing medical education hours. Appropriate courses shall include all of the educational elements described in Subsection A of this section. The applicability of such courses toward fulfillment of the continuing medical education requirement is subject to medical board approval. These hours may be earned at any time during the three-year period immediately preceding the triennial

renewal date. The five continuing medical education hours completed prior to July 1, 2014, as defined in Subsection A above, may be included as part of the required continuing medical education hours in pain management in either the triennial cycle in which these hours are completed, or the triennial cycle immediately thereafter.

C. Biennial requirements for physician assistants. Beginning with the July 1, 2014 biennial renewal date, in addition to the NCCPA certification required during each biennial renewal cycle pursuant to 16.10.15.16 NMAC, all New Mexico medical board physician assistant licensees who hold a federal drug enforcement administration registration and license to prescribe opioids, shall be required to complete and submit three continuing medical education hours. Appropriate courses shall include all of the educational elements described in Subsection A of this section. The applicability of such courses toward fulfillment of the continuing medical education requirement is subject to medical board approval. These hours may be earned at any time during the two-year period immediately preceding the renewal date. Three of the five continuing medical education hours completed prior to July 1, 2014, as defined in Subsection A above, may be included as part of these required three continuing medical education hours in pain management in either the biennial cycle in which these hours are completed, or the biennial cycle immediately thereafter. ~~[These three hours]~~ Any or all three of these hours may also be applied to satisfy NCCPA requirements for certification.

D. Biennial requirements for anesthesiologist assistants. Beginning with the July 1, 2014 biennial renewal date, all New Mexico medical board anesthesiologist assistant licensees who hold a federal drug enforcement administration registration and license to prescribe opioids, shall be required to complete and submit three continuing medical education hours. Appropriate courses shall include all of the educational elements described in Subsection A of this section. The applicability of such courses toward fulfillment of the continuing medical education requirement is subject to medical board approval. These hours may be earned at any time during the two-year period immediately preceding the renewal date. Three of the five continuing medical education hours completed prior to July 1, 2014, as defined in Subsection A above, may be included as part of these required three continuing medical education hours in pain management in either the biennial cycle in which these hours are completed, or the biennial cycle immediately thereafter.

E. Requirements for new licensees. All New Mexico medical board licensees, whether or not the New Mexico license is their first license, who hold a federal drug enforcement administration registration and license to prescribe opioids, shall complete five continuing medical education hours in pain management during the first year of licensure. These five continuing medical education hours completed prior to the first renewal may be included as part of the hours required in Subsections B, C or D, above.

F. The continuing medical education requirements of this section ~~[are]~~ may be included in the total continuing medical education requirements set forth at 16.10.4.8 NMAC, 16.10.15.16 NMAC and 16.10.19.15 NMAC.

[16.10.14.11 NMAC - N, 9/28/12]

16.10.14.12 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 Part 14 of the New Mexico medical board rule, 16.10.14 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.

[16.10.14.12 NMAC - N, 9/28/12]

HISTORY OF 16.10.14 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 10 MEDICINE AND SURGERY PRACTITIONERS
PART 15 PHYSICIAN ASSISTANTS: LICENSURE AND PRACTICE REQUIREMENTS

16.10.15.1 ISSUING AGENCY: New Mexico Medical Board hereafter called the board.
[16.10.15.1 NMAC - Rp 16 NMAC 10.15.1, 7/15/01; A, 10/5/03]

16.10.15.2 SCOPE: This part applies to physician assistants and their supervising physicians.
[16.10.15.2 NMAC - Rp 16 NMAC 10.15.2, 7/15/01]

16.10.15.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Medical Practice Act, Sections 61-6-1 through 61-6-35 NMSA 1978.
[16.10.15.3 NMAC - Rp 16 NMAC 10.15.3, 7/15/01]

16.10.15.4 DURATION: Permanent
[16.10.15.4 NMAC - Rp 16 NMAC 10.15.4, 7/15/01]

16.10.15.5 EFFECTIVE DATE: July 15, 2001 unless a later date is cited at the end of a section.
[16.10.15.5 NMAC - Rp 16 NMAC 10.15.5, 7/15/01]

16.10.15.6 OBJECTIVE: This part regulates the licensing and practice of physician assistants and their supervision by licensed physicians.
[16.10.15.6 NMAC - Rp 16 NMAC 10.15.6, 7/15/01]

16.10.15.7 DEFINITIONS:

- A. "AAPA"** means American academy of physician assistants.
- B. "Alternate supervising physician"** means a physician who holds a current unrestricted New Mexico medical license, is a cosignatory on the notification of supervision, agrees to act as the supervising physician in the supervising physician's absence and is approved by the board.
- C. "Interim permit"** means a document issued by the board that allows a physician assistant to practice pending completion of all licensing requirements.
- D. "Effective supervision"** means the exercise of physician oversight, control, and direction of services rendered by a physician assistant. Elements of effective supervision include:
 - (1) on-going availability of direct communication, either face-to-face or by electronic means;
 - (2) active, ongoing review of the physician assistants services, as appropriate, for quality assurance and professional support;
 - (3) delineation of a predetermined plan for emergency situations, including unplanned absence of the primary supervising physician; and
 - (4) identification and registration of alternate supervising physicians, as appropriate to the practice setting.
- E. "Lapsed"** means a license that has not been renewed by March 1 of the expiration year and has been suspended for non-renewal. A license that has lapsed is not valid for practice in New Mexico.
- F. "Nationwide criminal history record"** means information concerning a person's arrests, indictments, or other formal criminal charges and any dispositions arising there from, 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.
- G. "Nationwide criminal history screening"** means a criminal history background investigation of an applicant for licensure by examination or endorsement, or a licensee applying for licensure renewal, 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.
- H. "NCCPA"** means national commission on certification of physician assistants.
- I. "Direct communication"** means communication between the supervising physician and physician assistant, in person, telephonically, by two-way radio, by email or other electronic means.
- J. "Scope of practice"** means duties and limitations of duties placed upon a physician assistant by their supervising physician and the board; includes the limitations implied by the field of practice of the supervising

physician.

K. “Statewide criminal history record” means information concerning a person’s arrests, indictments, or other formal criminal charges and any dispositions arising there from, including convictions, dismissals, acquittals, sentencing and correctional supervision, collected by criminal justice agencies and stored in the computerized database of the department of public safety or the repositories of criminal history information in municipal jurisdictions.

L. “Statewide criminal history screening” means a criminal history background investigation of a licensee applying for licensure renewal through the use of fingerprints submitted to the department of public safety and resulting in the generation of a statewide criminal history record for that licensee.

M. “Supervising physician” means a physician who holds a current unrestricted license, provides a notification of supervision, assumes legal responsibility for health care tasks performed by the physician assistant and is approved by the board.

N. “Suspended for non-renewal” means a license that has not been renewed by May 31 of the expiration year, and has at the discretion of the board, been lapsed.

O. “Emergency supervising physician” means a physician who is responsible for the operations of a team or group of health professionals, including physician assistants, who are responding to a major disaster.

P. “Major disaster” means a declaration of a major disaster by the federal emergency management agency (FEMA).

[16.10.15.7 NMAC - Rp 16 NMAC 10.15.7, 7/15/01; A, 10/7/05; A, 12/30/05; A, 7/1/06; A, 9/27/07; A, 9/21/09]

16.10.15.8 QUALIFICATIONS FOR LICENSURE AS A PHYSICIAN ASSISTANT:

A. graduation from a program for physician assistants accredited by the committee on allied health education and accreditation (CAHEA) of the American medical association, the accreditation review committee on education for the physician assistant (ARC-PA) or its successor agency, or passed the physician assistant national certifying examination administered by NCCPA prior to 1986 and has proof of continuous practice with an unrestricted license as a physician assistant in another state for four (4) years prior to application;

B. current NCCPA certification;

C. good moral and professional character; and

D. any other proof of competency as may be requested by the board.

[16.10.15.8 NMAC - Rp 16 NMAC 10.15.8, 7/15/01; A, 10/5/03; A, 1/1/09]

16.10.15.9 LICENSURE PROCESS: Each applicant for a license as a physician assistant shall submit the required fees and following documentation.

A. A completed application for which the applicant has supplied all information and correspondence requested by the board on forms and in a manner acceptable to the board. Applications are valid for 1 year from the date of receipt.

B. Two letters of recommendation from physicians licensed to practice medicine in the United States or physician assistant program directors, or the director’s designee, who have personal knowledge of the applicant’s moral character and competence to practice. Letters of recommendation must be sent directly to the board from the individual recommending the applicant.

C. Verification of licensure in all states where the applicant holds or has held a license to practice as a physician assistant, or other health care profession. Verification must be sent directly to the board from the other state board(s). Verification must include a raised seal; attest to current status, issue date, license number, and all other related information.

D. Verification of all work experience in the last five years, if applicable, provided directly to the board.

E. All applicants may be required to personally appear before the board or the board’s designee for an interview and must present original documents, as the board requires. The initial license will be issued following completion of any required interview, and/or approval by a member or agent of the board.

F. The initial license is valid until March 1 of the year following NCCPA expiration.

G. License by endorsement from New Mexico board of osteopathic examiners. Applicants who are currently licensed in good standing by the New Mexico board of osteopathic examiners may be licensed by endorsement upon receipt of a verification of licensure directly from the New Mexico board of osteopathic examiners, a supervising physician form signed by the M.D. who will serve as supervising or alternate supervising physician, and a fee of \$25.00.

H. All applicants for initial licensure as a physician assistant are subject to a state and national

criminal history screening at their expense. All applicants must submit two (2) full sets of fingerprints, completed fingerprint certificate form, signed authorization for criminal background screening and fee at the time of application.

(1) Applications for licensure will not be processed without submission of fingerprints, completed fingerprint certificate form, signed authorization for criminal background screening and fee.

(2) Applications will be processed pending the completion of the nationwide criminal background screening and may be granted while the screening is still pending.

(3) If the criminal background screening reveals a felony or a violation of the Medical Practice Act, the applicant/licensee will be notified to submit copies of legal documents and other related information to the board which will make the determination if the applicant is eligible for licensure or if disciplinary action will be taken. [16.10.15.9 NMAC - N, 7/15/01; A, 10/5/03; A, 8/6/04; A, 10/7/05; A, 7/1/06; A, 9/27/07]

16.10.15.10 INTERIM AND TRAINING PERMITS:

A. Interim permits are issued to eligible applicants who have completed the application process and complied with all other licensure requirements except certification by the NCCPA.

(1) Physician assistants not currently certified by NCCPA have a one-time grace period of one-year from the date of graduation from a program approved by ARC-PA or its successor agency to become certified.

(2) Interim permits expire at the end of the one year grace period. Upon expiration of the interim permit the physician assistant may no longer practice, but may reapply upon NCCPA certification.

B. Training permits may be issued to eligible applicants, regardless of NCCPA certification status, who have completed the application process and who have not been actively and continuously in clinical practice for the two years prior to application and who are required by the board to undertake appropriate retraining prior to licensure or reinstatement. A training permit shall be valid for one year and may not be renewed. [16.10.15.10 NMAC - N, 7/15/01; A, 10/5/03; A, 8/6/04; A, 7/1/06; A, 9/27/07]

16.10.15.11 APPROVAL OF SUPERVISING PHYSICIANS:

A. Pursuant to Section 61-6-10 NMSA 1978 a physician may supervise as many physician assistants as the physician can effectively supervise and communicate with in the circumstances of their particular practice setting.

B. All supervising physicians shall submit written notice of intent to supervise a physician assistant on forms prescribed by the board. These forms must be submitted and approved before the physician assistant begins work. Failure of the supervising physician to comply with the Medical Practice Act and the rules may result in denial of approval for current or future physician assistant supervision.

C. Within thirty days after an employer terminates the employment of a physician assistant, the supervising physician or the physician assistant shall submit a written notice to the board providing the date of termination and reason for termination. The physician assistant shall not work as a physician assistant until the board approves another supervising physician.

D. A physician assistant who is employed by the United States government and who works on land or in facilities owned or operated by the United States government or a physician assistant who is a member of the reserve components of the United States and on official orders or performing official duties as outlined in the appropriate regulation of that branch may be licensed in New Mexico with proof that their supervising physician holds an active medical license in another state.

[16.10.15.11 NMAC - Rp 16 NMAC 10.15.11, 7/15/01; A, 10/7/05; A, 9/27/07; A, 1/1/09]

16.10.15.12 SUPERVISION OF PHYSICIAN ASSISTANT: Supervision of a physician assistant must be rendered by a registered supervising physician or alternate supervising physician and not through a third party.

A. Responsibility of supervising physician.

(1) Provide direction to the physician assistant to specify what medical services should be provided under the circumstances of each case. This may be done through a written utilization plan or by other direct communications.

(2) Provide a means for immediate communication between the physician assistant and the supervising physician or alternate supervising physician.

(3) Comply with the quality assurance requirements specified in Subsection B of 16.10.15.12 NMAC.

(4) Designate an alternate supervising physician and notify the board in writing by letter, fax or email of any change from forms previously submitted.

B. Quality assurance requirements. A quality assurance program for review of medical services

provided by the physician assistant must be in place.

C. Alternate supervising physician. A physician serving as alternate supervising physician must comply with all of the requirements of Subsection A of 16.10.15.12 NMAC.

D. Compensation of physician assistants.

(1) The salary of a physician assistant may be paid by an agency or person other than the supervising physician.

(2) Under no circumstances can a physician assistant submit a separate bill to any patient of the physician.

[16.10.15.12 NMAC - Rp 16 NMAC 10.15.12, 7/15/01; A, 10/7/05; A, 9/27/07]

16.10.15.13 SCOPE OF PRACTICE:

A. Unless otherwise provided by law, physician assistants may provide medical services delegated to them by the supervising physician when such services are within the physician assistant's skills and form a usual component of the physician's scope of practice.

B. A physician assistant may assist a designated supervising physician in an inpatient or surgical health care institution within the institution's bylaws or policies including act as a first surgical assistant in the performance of surgery, when permitted by the institution's bylaws or regulations.

[16.10.15.13 NMAC - Rp 16 NMAC 10.15.9, 7/15/01; A, 10/7/05]

16.10.15.14 PRACTICE LIMITATIONS:

A. Except as provided in Subsection B of 16.10.15.13 NMAC, a physician assistant shall not suture major lacerations. A major laceration is one that extends to or through the deep fascia, muscles, nerves, tendons or major blood vessels.

B. Except as provided in Subsection B of 16.10.15.13 NMAC, a physician assistant may render first aid and immobilize fractures, but they may not manipulate or reduce a fracture when such manipulation requires regional or general anesthesia unless they are acting as first surgical assistant with a physician.

[16.10.15.14 NMAC - Rp 16 NMAC 10.15.14, 7/15/01; A, 10/7/05]

16.10.15.15 EXEMPTION FROM LICENSURE:

A. A physician assistant student enrolled in a physician assistant or surgeon assistant educational program accredited by the committee on allied health education and accreditation or by its successor shall be exempt from licensure while functioning as a physician assistant student.

B. A physician assistant employed by the United States government and who works on land or in facilities owned or operated by the United States government or a physician assistant who is a member of the reserve components of the United States and on official orders or performing official duties as outlined in the appropriate regulation of that branch.

[16.10.15.15 NMAC - Rp 16 NMAC 10.15.13, 7/15/01]

16.10.15.16 LICENSE EXPIRATION, RENEWAL, CHANGE OF STATUS:

A. Physician assistant licenses expire on March 1 of the year following NCCPA expiration. To avoid additional penalty fees, a completed renewal application, accompanied by the required fees, proof of current NCCPA certification and other documentation must be submitted through the online renewal system, post-marked or hand-delivered on or before March 1 of the expiration year. A New Mexico physician assistant license that has not been renewed by March 1 of the renewal year will remain temporarily active with respect to medical practice until June 1 of the renewal year at which time, at the discretion of the board, the license may be suspended for non-renewal and the status changed to lapsed. The primary supervising physician will be notified.

B. The board assumes no responsibility for renewal applications not received by the licensee for any reason. It is the licensee's responsibility to assure the board has accurate address information and to make a timely request for the renewal application if one has not been received prior to license expiration.

C. Renewal applications postmarked or hand-delivered after March 1 but prior to April 15 must be accompanied by the completed renewal application, proof of current NCCPA certification, the renewal fee and late fee indicated in 16.10.9.9 NMAC.

D. Renewal applications postmarked or hand-delivered on or after April 16 but prior to May 30 must be accompanied by the completed renewal application, proof of current NCCPA certification, the renewal fee and late fee indicated in 16.10.9.9 NMAC.

E. A physician assistant who has not passed the NCCPA six year recertification exam prior to the

date of license expiration may apply to the board for an emergency deferral of the requirement. A designee of the board may grant deferrals of up to one year.

(1) A physician assistant who is granted an emergency deferral shall pay the renewal fee and additional late fee indicated in 16.10.9.9 NMAC.

(2) The license of a physician assistant who is granted an emergency deferral shall expire two years after the original renewal date, regardless of the duration of the emergency deferral.

F. The board may suspend for non-renewal and change the status to lapsed on June 1 of the renewal year. The license of any physician assistant who has failed within ninety days after the license renewal date to renew their license, or to change the license status, or to pay all required fees, or to comply with NCCPA certification requirements, or to provide required documentation, or to request an emergency deferral.

G. At the time of license renewal a physician assistant may request a status change.

(1) A license that is placed on inactive status requires payment of a fee as defined in 16.10.9.9 NMAC. A license in inactive status is not valid for practice in New Mexico but may be reinstated in accordance with the provisions of 16.10.15.16 NMAC.

(2) On request, a license may be placed on retired status. There is no charge for this change in status. A retired license is not valid for practice in New Mexico and such license may not subsequently be reinstated. A physician assistant with a retired license who chooses to reinstate the license must re-apply as a new applicant.

(3) A physician assistant may inform the board that he does not wish to renew an active license to practice in New Mexico and will voluntarily allow the license to lapse. There is no charge for this change to voluntarily lapsed status. A voluntarily lapsed license is not valid for practice in New Mexico but may be reinstated in accordance with the provisions of 16.10.15.16 NMAC.

H. Re-instatement within two years. An inactive, lapsed, voluntarily lapsed or suspended license may be placed on active status upon completion of a renewal application in which the applicant has supplied all required fees and proof of current NCCPA certification.

I. Re-instatement after two years. An inactive, lapsed, voluntarily lapsed or suspended license may be placed on active status upon completion of a re-instatement application for which the applicant has supplied all required fees, information and correspondence requested by the board on forms and in a manner acceptable to the board. Applicants may be required to personally appear before the board or the board's designee for an interview.

J. All renewal and reinstatement applications will be subject to a one-time nationwide and statewide criminal history screening.

(1) Renewal and reinstatement applications will be processed pending the completion of the statewide criminal history screening and may be granted while the screening still pending.

(2) If the nationwide or statewide criminal background screening reveals a felony or a violation of the Medical Practice Act, the licensee will be notified to submit copies of legal documents and other related information to the board which will make the determination if the applicant is eligible for licensure or if disciplinary action will be taken.

K. Additional Continuing Medical Education Requirements. The specific continuing medical education requirements set forth at 16.10.14 NMAC shall be satisfied for license renewal. Proof of satisfaction of these requirements shall be submitted directly to the Board. Any education credits so submitted may also be separately submitted to satisfy NCCPA requirements.

[16.10.15.16 NMAC - N, 7/15/01; A 10/5/03; A, 8/6/04; A, 7/1/06; A, 9/27/07; A, 9/21/09]

16.10.15.17 SEVERABILITY: If any provision of this rule is determined to be void or illegal by a court of law or other authority, the remainder of the rule shall remain in full force and effect notwithstanding.

[16.10.15.17 NMAC - Rp 16 NMAC 10.15.15, 7/15/01]

16.10.15.18 PROVISIONS FOR PHYSICIAN ASSISTANT LICENSURE DURING A DECLARED DISASTER:

A. Licensing. The board will make accommodations for physician assistants 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.

B. License expiration. Licenses issued under Subsection A of 16.10.15.18 NMAC shall be valid for not less than three months or more than twenty-seven months. Licenses expire on March 1 of the year following

NCCPA expiration. Licenses not renewed by March 1 of the expiration year are considered expired. The board reserves the right to request additional documentation, including but not limited to recommendation forms prior to approving license renewal.

[16.10.15.18 NMAC - N/E, 9/22/05; A, 12/30/05]

16.10.15.19 SERVICES PERFORMED DURING AN EMERGENCY OR DISASTER:

A. The supervision and delegation requirements of 16.10.15.12 NMAC and Sections 61-6-7 through 61-6-10 NMSA 1978 do not apply to medical tasks performed by a physician assistant during a major disaster.

B. A physician assistant may provide medical services and perform tasks described by 16.10.15.12 NMAC and Sections 61-6-7 NMSA 1978 while:

- (1) under the supervision of any physician who is also performing volunteer work in the disaster; or
- (2) without the supervision of a physician, if a physician is not currently available to provide supervision.

C. The physician assistant is responsible for notifying the board of the following information by email, fax or by mail, within 30 days of initiation of the activity:

- (1) the name of the emergency supervising physician(s), if known, or the organization providing oversight;
- (2) a general description of the time period; and
- (3) the location of the emergency duties.

D. There are no limits on the number of physician assistants who may be supervised by the emergency supervising physician.

[16.10.15.19 NMAC - N/E, 9/22/05; A, 12/30/05]

HISTORY of 16.10.15 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:

NMBME Rule 79-14, Rules and Regulations Governing the Issuance of Certificates of Qualification of Physicians' Assistants, 9/19/79

NMBME Rule 79-15, Rules and Regulations Pertaining to Physicians' Assistants, 9/19/79

NMBME Rule 79-15, Rules and Regulations Pertaining to Physicians' Assistants, 10/4/79

NMBME Rule 79-15, Amendment No. 1, 1/21/81

Rule 86-2, Physician Assistants - Approval of Supervising Physicians, 2/5/86

Rule 89-PA1, Physician Assistant-Definitions, 6/16/89

Rule 89-PA2, Physician Assistants - Qualifications of Physician Assistants, 6/16/89

Rule 89-PA3, Physician Assistant - Registration, 6/16/89

Rule 89-PA4, Physician Assistants - Approval of Supervising Physicians, 6/16/89

Rule 89-PA5, Physician Assistant - Relationship of Physician Assistants to Designated Supervising Physicians, 6/16/89

Rule 89-PA6, Physician Assistants - Scope of Practice, 6/16/89

Rule 89-PA9, Physician Assistants - Physician Assistant Students, 6/16/89

Rule 92-PA6, Physician Assistants - Scope of Practice, 1/14/92

PA Rule 3, Physician Assistant - Registration, 10/27/94

PA Rule 5, Physician Assistant - Relationship of Physician Assistants to Designated Supervising Physicians, 10/27/94

NMAC History:

16 NMAC 10.15, Qualifications and Licensure for Physician Assistants, 3/5/97.

16 NMAC 10.15, Qualifications and Licensure for Physician Assistants, 6/16/98.

History of the Repealed Material:

16 NMAC 10.15, Qualifications and Licensure for Physician Assistant - Repealed, 7/15/01