TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 57 MANAGEMENT OF PAIN WITH CONTROLLED SUBSTANCES

16.57.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.

16.57.2 SCOPE: This part applies to all New Mexico dental board licensees who hold a federal drug enforcement administration registration.

16.57.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to and in accordance with Section 61-5A-4 of the Dental Health Care Act and the Pain Relief Act, Sections 24-2D-1 NMSA through 24-2D-6.

16.57.4 DURATION: Permanent.

16.57.5 EFFECTIVE DATE: xx-xx-xx, unless a later date is cited at the end of a section.

16.57.6 OBJECTIVE: It is the position of the board that dentists 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 the appropriate length of time after a thorough dental evaluation has been completed.

16.57.7 DEFINITIONS:
   A. “Addiction” means a neurobehavioral syndrome with genetic and environmental influences that result 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.
   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 dental efforts have been made to relieve the pain or its cause and that continues, either continously 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 dental 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 (PMP)” 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 is used to support efforts in education, research, enforcement, and abuse prevention.
   I. “Therapeutic purpose” means the use of pharmaceutical and non-pharmaceutical dental 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.

16.57 NMAC
16.5.57.8 **GUIDELINES:** The following regulations shall be used by the board to determine whether a dentist’s prescriptive practices as consistent with the appropriate treatment of pain.

A. The treatment of pain with various medicines or controlled substances is a legitimate dental 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 or 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 dentist shall complete a dental examination. 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 substance.

2. A dentist 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 dentist 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 dentist 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 the patient outlining patient responsibilities. As part of the written agreement, chronic pain patients shall receive all chronic pain management prescriptions from one dentist and one pharmacy whenever possible.

6. The management of patients needing chronic pain control requires monitoring by the attending or the consulting dentist. The dentist 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 lease every six months. In addition, a dentist 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 dentist’s opinion, a patient is seeking pain medication for reasons that are not medically justified, the dentist is not required to prescribe controlled substances for the patient.

C. The board will evaluate the quality of care on the following basis: appropriate diagnosis and evaluation; appropriate dental indication for the treatment prescribed; documented change or persistance of the recognized dental indication; and, follow-up evaluation with appropriate continuity of care. The board will judge the validity of prescribing based on the dentist’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.

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

E. A dentist 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 Dental Health Care Act or board rules.

[16.5.57.8 NMAC - N, xx-xx-xx]

16.5.57.9 **DENTISTS TREATED WITH OPIATES:** Dentists 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.
16.5.57.10  PRESCRIPTION MONITORING PROGRAM (PMP) REQUIREMENTS: The intent of requiring participation in the PMP is to assist dentists in balancing the safe use of controlled substances with the need to impede illegal and harmful activities involving these pharmaceuticals.
A. A dentist 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 dentist 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 exists:
   (1) the patient is a new patient of the dentist, 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 a minimum of once every six months.

16.5.57.11  PAIN MANAGEMENT CONTINUING EDUCATION: This section applies to all New Mexico dentists 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 xx-xx, 2013. Between xx-xx, 2013 and no later than June 30, 2014, all board licensees who hold a federal drug enforcement administration registration and licensure to prescribe opioids, shall complete no less than three continuing dental education hours in appropriate courses that shall include:
   (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 (16.5.57 NMAC);
the applicability of such courses toward the fulfillment of the continuing education requirement is subject to board approval; dentists who have taken continuing education hours in these educational elements between July 1, 2012 and xx-xx, 2013, may apply those hours toward the required three continuing education hours described in this section.
B. Triennial requirements: Beginning with the July 1, 2014 triennial renewal date, all New Mexico dentist licensees who hold a federal drug enforcement administration registration and license to prescribe opioids shall be required to complete and submit three continuing education hours; these hours shall count toward the 60 continuing education hours required during each triennial cycle. 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 education requirement is subject to board approval. These hours may be earned at any time during the three-year period immediately preceding the triennial renewal date. The three continuing education hours completed prior to July 1, 2014, as defined in Subsection A, may be included as part of the required continuing education hours in pain management in either the triennial cycle in which those hours are completed or the triennial cycle immediately thereafter.
C. Requirements for new licensees: All New Mexico dental licensees who hold a federal drug enforcement administration registration and license to prescribe opioids, whether or not the New Mexico license is the licensee’s first license, shall complete three continuing education hours in pain management during the first year of licensure. These three continuing education hours completed prior to the first renewal may be included as part of the hours required in Subsection B of this section.
D. The continuing education requirements of this section shall be included in the total continuing education requirements as set forth in 16.5.10 NMAC.

16.5.57.12  NOTIFICATION: In addition to the notice of procedures set forth in the State Rules Act Chapter 14, Article 4, NMSA 1978, the board shall separately notify the following persons of the Pain Relief Act and Part 57 of the New Mexico dental board rule;
A. health care practitioner’s under its jurisdiction; and
B. a health care practitioner being investigated by the board in relation to the practitioner’s pain
management services.
[16.5.57.12 NMAC - N, xx-xx-xx]

HISTORY OF 16.5.57 NMAC: [RESERVED]