TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16 OPTOMETRIC PRACTITIONERS
PART 1 GENERAL PROVISIONS

16.16.1.1 ISSUING AGENCY: New Mexico Board of Optometry.
[10-14-95; A, 6-26-00; 16.16.1.1 NMAC - Rn, 16 NMAC 16.1.1, 03-15-2001; A, 07-06-2012]

16.16.1.2 SCOPE: Provisions for Part 1 of Chapter 16 apply to licensees, applicants, other agencies, professional associations, and any member of the general public.
[10-14-95; 16.16.1.2 NMAC - Rn, 16 NMAC 16.1.2, 03-15-2001]


16.16.1.4 DURATION: Permanent.
[10-14-95; 16.16.1.4 NMAC - Rn, 16 NMAC 16.1.4, 03-15-2001]

16.16.1.5 EFFECTIVE DATE: October 14, 1995, unless a later date is cited at the end of a section.
[8-21-92…10-14-95; 16.16.1.5 NMAC - Rn, 16 NMAC 16.1.5, 03-15-2001; A, 07-06-2012]

16.16.1.6 OBJECTIVE: The objective of Part 1 of Chapter 16 is to establish regulations for the general provisions which apply to all of the board of optometry's rules, policies, and procedures.
[10-14-95; 16.16.1.6 NMAC - Rn, 16 NMAC 16.1.6, 03-15-2001; A, 07-06-2012]

16.16.1.7 DEFINITIONS:
A. “Advertisement” means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, a patient to seek the services of an optometrist.
B. “Advertisement of Health Care Services Act” means NMSA 1978, Sections 57-21-1 to 57-21-3, and herein referred to as the Advertisement of Health Care Services Act.
C. [RESERVED]
D. “Board” means the New Mexico board of optometry, herein referred to as the board.
E. “Controlled substance” means any drug, substance or immediate precursor enumerated in Schedules I through V of the Controlled Substances Act.
F. “Controlled Substances Act” means NMSA 1978 Sections 30-31-1 to 30-31-41 and herein referred to as the Controlled Substances Act.
G. [RESERVED]
J. “Optometric physician” means an optometrist who has been certified by the board to administer [and prescribe oral and topical] pharmaceutical medication in the diagnosis, treatment and management of ocular diseases.
M. [RESERVED]
N. “Parental Responsibility Act” refers to Chapter 25 Laws of 1995, herein referred to as the Parental Responsibility Act or PRA.
O. “Prescription” as defined in Section 26-1-2.1 of the Drug, Device and Cosmetic Act means an order given individually for the person for whom prescribed, either directly from the prescriber to the pharmacist or
indirectly by means of \[a\] an electronic or written order signed by the prescriber, and bearing the name and address of the prescriber, his license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue.


**Q.** [RESERVED]


**S.** “Uniform Licensing Act” means NMSA 1978 Sections 61-1-1 to 61-1-33 (1993 Repl. Pamp.), herein referred to as the Uniform Licensing Act or ULA.

16.16.1.8 INSPECTION OF BOARD RECORDS:

A. Except as otherwise provided by law, all applications, pleadings, petitions, motions, exhibits, decisions and orders entered following formal disciplinary proceedings conducted pursuant to the Uniform Licensing Act are matters of public record as of the time of filing with or by the board.

B. [RESERVED]

C. Any person may examine all public records in the board's custody. The following procedure shall be followed by persons requesting inspection of public records.

1. The request shall identify the records sought with reasonable particularity. The board will produce public records as required under the Inspection of Public Records Act, NMSA 1978, §§ 14-2-1 to -12.

2. Upon request, the board may provide copies of public records, lists, labels, and verifications and may charge a reasonable fee to defray copying and mailing charges. The board is not obligated to create lists, labels, or materials which are not already in existence.

3. No person shall be permitted to remove documents from the board's office.

16.16.1.9 TELEPHONE CONFERENCES: As authorized by NMSA 1978 (1993 Repl. Pamp.) Section 10-15-1.C of the Open Meetings Act, when it is difficult or impossible for a Board member to attend a Board meeting in person, the member may participate by means of a conference telephone or similar communications equipment. Participation by such means shall constitute presence in person at the meeting. Each member participating by conference telephone must be identified when speaking. All participants must be able to hear each other at the same time, and members of the public attending the meeting must be able to hear any member of the Board who speaks during the meeting.

HISTORY of 16.16.1 NMAC:

Pre-NMAC History:
Material in the part was derived from that previously filed with the commission of public records - state records center and archives:
NMBO Rule 20, Board Rule No. 20 - Inspection of Board Records, filed 7-22-92.

History of Repealed Material: [Reserved]

Other History:
16 NMAC 16.1, General Provisions, filed 9-21-95, replaced that relevant portion of NMBO Rule 20, Board Rule No. 20 - Inspection of Board Records.
16.16.5.1 ISSUING AGENCY: New Mexico Board of Optometry.

16.16.5.2 SCOPE: The provisions in Part 5 of Chapter 16 apply to all applicants for optometric licensure in New Mexico.

16.16.5.3 STATUTORY AUTHORITY: The authority for Part 5 of Chapter 16 is NMSA 1978, Section 61-2-4.1; Section 61-2-6.B and D. (6) (7); Section 61-2-9; and 61-2-6.D. (1) and (2) (1995 Repl. Pamp.).

16.16.5.4 DURATION: Permanent.

16.16.5.5 EFFECTIVE DATE: October 14, 1995, unless a later date is cited at the end of a section.

16.16.5.6 OBJECTIVE: The objective of Part 5 of Chapter 16 is to establish the requirements, policies, and procedures for examination for licensure to practice optometry in New Mexico.

16.16.5.7 DEFINITIONS:
A. “NBEO” means the national board of examiners in optometry.
B. “NBEO Part I” refers to the NBEO basic science exam.
C. “NBEO Part II” refers to the NBEO clinical science exam.
D. “NBEO Part III” refers to the NBEO patient care exam which consists of PMP’s (patient management); VRICS (visual recognition and interpretation of clinical signs); and clinical skills.
E. “The TMOD” means the NBEO treatment and management of ocular disease exam.

16.16.5.8 NATIONAL STANDARDS EXAMINATION:
A. As of January 15, 1995, all candidates, except those who have met the qualification requirements set forth in Subsections A and B of 16.16.4.8 NMAC and have been approved by the board as candidates for licensure by endorsement, shall be required to pass Part I, Part II, Part III, and the TMOD of the NBOE national standards examination as a prerequisite to sitting for the board’s licensing examination.
B. [RESERVED]
C. Official notice of examination scores for all required parts of the NBEO examination must be received directly from the NBEO.

16.16.5.9 NEW MEXICO LICENSING EXAMINATION:
A. As of January 15, 1995, all candidates for licensure shall be required to take the board's licensing examination, consisting of a jurisprudence exam and a clinical practicum exam.
B. The board examination shall only be seen by board members, individuals preparing and administering the examination and by examination candidates while sitting for the examination.
C. As soon as practical after the board examination is scored, each examination candidate will be notified in writing by certified mail, return receipt requested, of his or her individual scores and pass/fail status.
   (1) Successful exam candidates will have ninety (90) days from the date of receipt of the exam results notification to complete the licensure process as provided in 16.16.2.10 or 16.16.2.11 NMAC and 16.16.2.12 NMAC.
   (2) Candidates who do not complete the licensure process within the time provided in Subsection C, Paragraph (1) of 16.16.5.9 NMAC must reapply for licensure and meet all the requirements of...
application and examination as set forth in 16.16.3 NMAC.

D. A grade of seventy-five percent (75%) or better in each of the clinical sections and in the jurisprudence exam is required for passing the licensure examination.

E. Candidates failing to pass the board's examination may re-take a regularly scheduled examination upon approved re-application.
   (1) Failed candidates must repeat all portions of the board's examination.
   (2) The applicant must complete a new exam application form and submit an updated resume', provide updated license verifications directly from other licensing jurisdictions, and pay the required application processing and examination fees (16.16.2.8 and 16.16.2.9 NMAC).

F. Any candidate detected cheating in any manner during the course of any examination shall automatically fail the entire examination. Cheating on an examination shall be deemed unprofessional conduct, and shall demonstrate that the applicant is not of good moral character. Individuals detected cheating shall be afforded notice and the opportunity for a hearing under Section 61-1-4 of the Uniform Licensing Act.

G. The deadline for challenging the examination is three (3) months from the date the exam scores are mailed to the candidate by certified mail.

HISTORY of 16.16.5 NMAC:
Pre-NMAC History:
Material in the part was derived from that previously filed with the commission of public records - state records center and archives:
OEB 73-1, Administrative Rules and Regulations of the State Board of Examiners in Optometry, filed 10-18-73.

History of Repealed Material: [Reserved]

Other History:
16 NMAC 16.5, Examination For Optometric Licensure, filed 9-21-95 replaced that relevant portion of OEB 73-1, Administrative Rules and Regulations of the State Board of Examiners in Optometry.
16 NMAC 16.5, Examination For Optometric Licensure, filed 9-21-95, renumbered and reformatted to 16.16.5 NMAC, Examination For Optometric Licensure, effective 03-15-2001.
16.16.7.1 **ISSUING AGENCY:** New Mexico Board of Optometry.

16.16.7.2 **SCOPE:** Part 7 of Chapter 16 applies to all currently licensed New Mexico optometrists and to all applicants for licensure by the Board.

16.16.7.3 **STATUTORY AUTHORITY:** The authority for Part 7 of Chapter 16 is NMSA 1978 Section 61-2-6.D. (10); Section 61-2-10; Section 61-2-10.2; Section 61-2-10.3.A, and Section 61-2-6.D. (1) and (2) (1995 Repl. Pamp.).

16.16.7.4 **DURATION:** Permanent.

16.16.7.5 **EFFECTIVE DATE:** October 14, 1995, unless a later date is cited at the end of a section.

16.16.7.6 **OBJECTIVE:** The objective of Part 7 of Chapter 16 is to set forth the requirements and procedures for certification in the use of diagnostic, therapeutic, and oral pharmaceuticals for use by qualified licensees in the diagnosis, treatment, and management of ocular diseases.

16.16.7.7 **DEFINITIONS:** “Certificate” means a document issued by the board certifying that the applicant has met the requirements for which the certificate is issued.

16.16.7.8 **CERTIFICATE DISPLAY:** The licensee must display the pharmaceutical certificate(s) for which he has been qualified and certified by the Board in a conspicuous place at his/her principal office or place of business.

16.16.7.9 **TOPICAL OCULAR DIAGNOSTIC CERTIFICATION:**

   A. **Current licensees graduated before June 1, 1977.** In order to be granted certification to use topical ocular pharmaceutical agents for diagnostic purposes in New Mexico, optometrists currently licensed in New Mexico who graduated before June 1, 1977, must successfully complete seventy (70) or more hours of postgraduate education in general and ocular pharmacology as applied to optometry. The course must be taught by an institution accredited by the American optometric association's council on optometric education.

   B. **Current licensees graduated June 1, 1977 or after.** In order to be granted certification to use topical ocular pharmaceutical agents for diagnostic purposes in New Mexico, optometrists currently licensed in New Mexico who graduated after June 1, 1977, must successfully complete seventy (70) or more hours of postgraduate education in general and ocular pharmacology as applied to optometry. The course must have particular emphasis on the topical application of diagnostic pharmaceutical agents to the eye for the purpose of examination and analysis of ocular functions and must be taught by an institution accredited by the American optometric association's council on optometric education. The New Mexico Drug, Device and Cosmetic Act defines optometrists as prescribing practitioners. Subject to the provisions of the Optometry Act, New Mexico licensed optometrists may prescribe or administer all pharmaceutical agents for the diagnosis and treatment of diseases of the eye or adnexa including controlled substances classified as Schedule II-V, provided that an optometrist:

   A. May prescribe hydrocodone and hydrocodone combination medications;

   B. May administer epinephrine auto-injections to counter anaphylaxis;
C. Shall not prescribe any other controlled substances classified in Schedule I or II pursuant to the Controlled Substances Act, Chapter 30, Article 31 NMSA 1978.

16.16.7 NMAC

16.16.7.10 TOPICAL OCULAR THERAPEUTIC CERTIFICATION:

A. Postgraduate education required of currently licensed optometrists: In order to be granted a certificate to administer and prescribe topical ocular therapeutic pharmaceutical agents, all optometrists currently licensed in New Mexico must provide the following documentation to the board:

(1) Proof of successful completion and examination in a one hundred (100) hour course in general and ocular pharmacology, including therapeutic pharmacology as applied to optometry, with particular emphasis on the application of pharmaceutical agents to the eye for the purpose of examination and analysis of ocular functions and the treatment of visual defects or abnormal conditions of the human eye and its adnexa;

(2) Proof that the course was taught by an institution accredited by the American Optometric Association's council on optometric education; and

(3) The required fee for a pharmaceutical certificate (16.16.2.12 NMAC).

B. Postgraduate education required of applicants for licensure:

(1) All optometry licensure applicants must provide the same documentation required in Subsection A of 16.16.7.10 NMAC before sitting for the board's licensing exam.

(2) After the applicant has met all licensure requirements, has successfully passed the board exam, and paid the required license and certificate fees, a license and an ocular therapeutic certificate will be issued to the applicant. [RESERVED]

16.16.7.11 ORAL PHARMACEUTICAL CERTIFICATION:

A. The certificate issued pursuant to the provisions in Section 61-2-10.2 of the Optometry Act allows the qualified optometrist to administer and prescribe the following classes of oral pharmaceutical drugs in the treatment and management of ocular disease:

(1) Anti-infective medications, not including antifungals;

(2) Anti-glaucoma medications, not including osmotic medications;

(3) Anti-allergy medications;

(4) Anti-inflammatory medications, not including oral corticosteroids and immunosuppression agents; and

(5) Analgesic medications, including schedule III through V controlled substances, as provided in the Controlled Substances Act.

B. Requirements for currently licensed New Mexico optometrists. In order for an optometrist currently licensed in the State of New Mexico to be granted certification to use the oral pharmaceutical agents listed in Subsection A of 16.16.7.11 NMAC, the optometrist must first:

(1) Be certified in New Mexico in the use of topical ocular pharmaceuticals in accordance with 16.16.7.10 NMAC.

(2) Provide proof of successful completion and examination in a board-approved course of instruction consisting of at least twenty (20) hours in clinical pharmacology, including systemic pharmacology as applied to optometry with particular emphasis on the administration of oral pharmaceutical agents for the purpose of examination of the human eye, and analysis of ocular functions and treatment of visual defects or abnormal conditions of the human eye and its adnexa.

(3) Provide proof the course was taught by an institution accredited by the American Optometric Association's council on optometric education.

C. Postgraduate education required of applicants for licensure:

(1) Licensure applicants graduated from optometry school prior to the 1994-1995 academic period must provide the board with the same documentation required in Subsection B of 16.16.7.11 NMAC.

(2) Licensure applicants receiving doctor of optometry degrees in the 1994-1995 academic year and thereafter have obtained the required number of academic hours required for the oral pharmacology course in their optometric program to meet the certification requirement for the administration and prescription of oral pharmaceutical agents in New Mexico. [RESERVED]

[10-14-95; A, 6-26-00; 16.16.7.11 NMAC - Rn, 16 NMAC 16.7.11, 03-15-2001; A, 03-22-2008; Repealed xx-xx-xxxx]
16.16.7.12 **DEA REGISTRATION REQUIRED:** Before a New Mexico optometric physician may administer, dispense, or prescribe any of the controlled substances which are allowed by the Optometry Act (Section 61-2-10.2) and for which a DEA registration is required, he/she must be registered by the New Mexico board of pharmacy and by the United States drug enforcement administration as provided in 16.16.8 NMAC.

[10-14-95; 16.16.7.12 NMAC - Rn, 16 NMAC 16.7.12, 03-15-2001; A, 07-06-2012]

16.16.7.13 **“OPTOMETRIC PHYSICIAN” TITLE USE:** Only those optometrists who have been certified as provided in 16.16.7.11 NMAC may use the title of “optometric physician”.


16.16.7.14 **PRESCRIPTION FOR PHARMACEUTICAL AGENTS:** A prescription written for a [topical ocular pharmaceutical agent or for an oral] pharmaceutical agent shall include an order given individually for the person for whom prescribed, either directly from the prescriber to the pharmacist or indirectly by means of a written or electronic order signed by the prescriber, that bears the following items:

A. the name and address of the prescriber;
B. the prescriber’s professional designation;
C. the name and address of the patient;
D. the name and quantity of the agent being prescribed;
E. directions for the use of the agent;
F. the prescription issue date; and
G. the number of refills allowed.

[16.16.7.14 NMAC - N, 03-17-2004]

16.16.7.15 **OPTOMETRIC PHYSICIAN CERTIFICATION REQUIREMENT:** All New Mexico licensed optometrists [graduated from optometry school prior to the 1994-1995 academic year, must complete the requirements for certification in the use of oral pharmaceutical agents prior to July 1, 2013, as required in Subsection B of 16.16.7.11 NMAC.] shall have pharmaceutical certification as determined by the board prior to licensure and may use the title “optometric physician”.

[16.16.7.15 NMAC - N, 03-22-2008; A, xx-xx-xxxx]

**HISTORY of 16.16.7 NMAC:**

**Pre-NMAC History:**
Material in the part was derived from that previously filed with the commission of public records - state records center and archives:
OEB 73-1, Rule No. 1 of Administrative Rules and Regulations of the State Board of Examiners in Optometry, filed 10-18-73.
NMBO Rule 12, - Board Rule No. 12 - Requirements for Pharmacology Certificate, filed 3-1-91.
OPT Rule No. 17 - Education Requirements, Therapeutic Pharmaceutical Agents, filed 2-6-86.

**History of Repealed Material:** [Reserved]

**Other History:**
16 NMAC 16.7, Pharmaceutical Certification, filed 9-21-95, replaced that relevant portion of NMBO Rule 12 and OPT Rule No. 17.
TITLE 16  OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16  OPTOMETRIC PRACTITIONERS
PART 8  DEA REGISTRATION REQUIREMENTS

16.16.8.1 ISSUING AGENCY: New Mexico Board of Optometry.

16.16.8.2 SCOPE: Part 8 of Chapter 16 applies to all New Mexico licensees [certified by the Board to use and dispense oral pharmaceuticals who intend to dispense and prescribe controlled dangerous substances as provided in NMSA 1978 Section 61-2-10.2 (1995 Repl. Pamp.)].


16.16.8.4 DURATION: Permanent.
[10-14-95; 16.16.8.4 NMAC - Rn, 16 NMAC 16.8.4, 03-15-2001]

16.16.8.5 EFFECTIVE DATE: October 14, 1995, unless a later date is cited at the end of a section.

16.16.8.6 OBJECTIVE: The objective of Part 8 of Chapter 16 is to inform [the qualified] optometrists of the procedures [which must be completed by the Board, the Board of Pharmacy, and the certified optometrist before the optometrist can receive a registration from the New Mexico Board of Pharmacy and the United States Drug Enforcement Administration to] to complete for certification before the optometrist can administer, dispense, and prescribe dangerous controlled substances in the treatment and management of ocular disease and conditions as provided in NMSA 1978 Section 61-2-10.2 (1995 Repl. Pamp.).
[10-14-95; 1616.8.6 NMAC - Rn, 16 NMAC 16.8.6, 03-15-2001; A, xx-xx-xxxx]

16.16.8.7 DEFINITIONS:
A. “DEA” means the United States Drug Enforcement Administration.
B. “dangerous controlled substances” means a drug or substance listed in Schedules I through V of the Controlled Substances Act.
C. “Board of Pharmacy” means the New Mexico Board of Pharmacy.
[10-14-95; 16.16.8.7 NMAC - Rn, 16 NMAC 16.8.7, 03-15-2001]

16.16.8.8 PRE-DEA REGISTRATION REQUIREMENTS:
A. [Any] All New Mexico licensed [optometrist, qualified and certified by the Board as provided in 16.16.7.11 NMAC] optometric physicians [who elect to administer, dispense, and/or prescribe oral pharmaceutical agents categorized as dangerous controlled substances in the treatment and management of ocular disease] must first register with the New Mexico Board of Pharmacy and the United States Drug Enforcement Administration (DEA).

[B.] The DEA must first review the Optometry Act provisions which authorize, and the Board regulations which administer and enforce the dispensing and prescribing controlled dangerous substances to ensure compliance with federal laws.

[C.] The DEA must officially recognize to the Board that New Mexico optometrists properly qualified and certified by the Board, will be eligible by federal law to receive a DEA registration.

[D.] Upon receipt of official recognition and authorization from the DEA, the Board will send the Board of Pharmacy an official list, as required by the Board of Pharmacy, of all Board licensees who have met the required qualifications and have received the proper Board certification as provided by Section 61-2-10.2 of the Optometry Act.

[E.] The Board of Pharmacy will send applications for State registration for dangerous controlled substances only to optometrists officially listed by the Board as certified for prescriptive authority of controlled substances.
[10-14-95; 16.16.8.8 NMAC - Rn, 16 NMAC 16.8.8, 03-15-2001; A, xx-xx-xxxx]
16.16.8.9 DEA REGISTRATION REQUIREMENTS FOR CERTIFIED OPTOMETRISTS:

A. Upon completion of the board of pharmacy's requirements, and upon receipt of a New Mexico registration for controlled substances from the board of pharmacy, the [qualified] optometrist shall apply for a DEA registration number from the DEA.

B. The DEA will issue a qualified, certified New Mexico licensed optometrist a DEA registration number only after the optometrist has been issued a New Mexico controlled substance registration by the board of pharmacy.

C. Upon receipt of a DEA registration number, the optometrist may administer, dispense, or prescribe dangerous controlled substances as provided in 16.16.7 NMAC for the treatment and management of ocular disease.

HISTORY of 16.16.8 NMAC:
Pre-NMAC History: None.

History of Repealed Material: [Reserved]

Other History:
16 NMAC 16.8, DEA Registration Requirements, filed 9-21-95, renumbered and reformatted to 16.16.8 NMAC, DEA Registration Requirements, effective 03-15-2001.
16.16.13.1 ISSUING AGENCY: New Mexico Board of Optometry.

16.16.13.2 SCOPE: Part 13 of Chapter 16 applies to all optometrists intending to renew, reinstate, or reactivate their New Mexico license to practice optometry.


16.16.13.4 DURATION: Permanent.

16.16.13.5 EFFECTIVE DATE: October 14, 1995, unless a later date is cited at the end of a section.

16.16.13.6 OBJECTIVE: The objective of Part 13 of Chapter 16 is to set forth the requirements and procedures for the New Mexico licensed optometrist to meet the continuing education requirements for license renewal, reactivation, or reinstatement.
[10-14-95; 16.16.13.6 NMAC - Rn, 16 NMAC 16.13.6, 03-15-2001; A, 04-24-2014]

16.16.13.7 DEFINITIONS: [RESERVED]

16.16.13.8 CONTINUING EDUCATION REQUIREMENTS: A minimum of twenty-two (22) clock hours of optometry related, board approved continuing education or postgraduate programs, are required for license renewal each year beginning July 1, as detailed below.

A. The continuing education shall be submitted as follows:
   (1) at least ten (10) of the twenty-two (22) hours of continuing education must be in a board approved program in clinical or ocular therapeutic pharmacology; and
   (2) at least one (1) of the twenty-two (22) hours of continuing education must be in a board approved course in pain management or related topic pursuant to 16.16.25.11 NMAC. This requirement shall begin with the 2015 renewal period beginning July 2, 2014.

B. For optometrists on inactive status [holding ocular therapeutics certification,] a minimum of ten (10) hours of continuing education in a board approved program in clinical or ocular therapeutic pharmacology is required.

C. The continuing education must have been taken within the preceding renewal period (i.e. July 2 of one year through June 30 of the next).

D. The board may audit any licensee’s continuing education documentation for the current licensing year and the two (2) previous years.

E. A licensee who receives a notice of audit shall submit to the board office on or before July 1, unless otherwise specified, evidence of continuing education hours for the requested period.

F. A license will be placed on expired status if the licensee fails to meet the continuing education requirements for renewal by the expiration date stated in this rule.

G. Reactivation of license expired due to non-renewal for failure to meet the continuing education requirement. The licensee may apply for license reactivation in the same manner as provided in Part 11 of 16.16 NMAC. The continuing education and fees will be calculated based on the number of years the license was expired due to non-renewal for failure to meet the continuing education requirement.

H. Newly licensed optometrists who graduated from optometry school within the same year of licensure may submit the completed curriculum of their last year of optometry school to meet their continuing education requirement the first year of renewal.
16.16.13.9 **APPROVED CONTINUING EDUCATION:** All subjects of education must be directly related to optometry. The New Mexico board of optometry approves the following programs for continuing education credit, as well as those listed on the updated list available on the board’s web site.

A. Any convention of the American optometric association (AOA).
B. Any meeting of an American optometric association affiliated state or regional association meeting, or meeting of the armed forces optometric society (AFOS).
C. Any session of the optometric extension program congress (OEPC).
D. Any state seminar of the graduate clinic foundation of the optometric extension program.
E. Courses sponsored by or given by accredited optometry schools.
F. Courses sponsored by the following organizations.
   (1) Optometric councils: mid-west, mountain west, southern, New England, southwest (SWCO).
   (2) Optometric contact lens societies: southwest, southern, heart of America.
   (3) Optometric congresses: southern, mountain states.
   (4) Courses sponsored by the American academy of optometry.
   (5) Courses approved by the council on optometric practice education (COPE) or courses approved by the New Mexico optometric association (NMOA).
G. The certificates of attendance required by Subsection C of 16.16.13.8 NMAC shall be signed by the presiding officer or designee of the organization conducting or sponsoring the program and shall identify the therapeutic pharmaceutical agent (TPA) courses.
H. Certificates of attendance for courses approved by COPE must have the COPE trademark and approval number.
I. A maximum of six (6) hours of internet-type course offerings, approved by COPE or any other board-approved sponsor, will be allowed for each annual renewal.

16.16.13.10 **REQUESTS FOR APPROVAL OF OTHER CONTINUING EDUCATION PROGRAMS:** All requests for approval of courses not covered by 16.16.13.9 NMAC shall be submitted to the board in writing by the individual optometrist before the program is attended.

A. The request shall be addressed to the board office and directed to the continuing education committee.
B. Information such as the following will be required:
   (1) The number of education hours to be completed.
   (2) The organization sponsoring the program.
   (3) The location and dates of the continuing education program.
   (4) The names of the courses and the names of the instructors.
   (5) Any other information deemed necessary.
C. Approval will be determined by the continuing education committee chairman.
   (1) If the continuing education committee chairman is uncertain of course qualification, approval or disapproval will be determined by the continuing education committee.
   (2) The continuing education committee will make this determination in a timely manner, creating no hardships or delay to the requesting optometrist.
D. If time does not permit, the approval or disapproval may be given verbally, but must always be followed by a written approval from the board.

E. The board's written approval must accompany the licensee's renewal documentation at the time of renewal.

16.16.13.11 **EXTENUATING CIRCUMSTANCES - DEFERRAL OR WAIVER CONTINUING EDUCATION REQUIREMENTS:**

A. A licensee may request a deferral or waiver of continuing education or CPR certification requirements in writing, at least thirty (30) days prior to the license’s expiration, should any of the following occur:
(1) licensee experiences prolonged debilitating illness; or
(2) one of licensee’s immediate family members suffers prolonged debilitating illness; or
(3) licensee is called to active duty by the national guard, any branch of the United States armed forces, or other recognized public service.

B. The written request for deferral or waiver shall contain an explanation of the underlying circumstance and shall include documentation in support of the request. At its discretion, the board may grant the request or variance.


HISTORY of 16.16.13 NMAC:
Pre-NMAC History:
Material in the part was derived from that previously filed with the commission of public records - state records center and archives:
OEB 73-1, Rule No. 6 of the Administrative Rules and Regulations of the State Board of Examiners in Optometry, filed 10-18-73.
NMBO Rule 6, Board Rule No. 6 - Continuing Education, filed 1-17-87.
NMBO Rule 7, Board Rule No. 7 - Continuing Education, filed 7-22-92.

History of Repealed Material: [RESERVED]

Other History:
16 NMAC 16.13, Continuing Education, filed 9-21-95, replaced that relevant portion of NMBO Rule 6, Board Rule No. 6 - Continuing Education and NMBO Rule 7, Board Rule No. 7 - Continuing Education.
TITLE 16  OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16  OPTOMETRIC PRACTITIONERS
PART 15  MANAGEMENT OF PAIN WITH CONTROLLED SUBSTANCES

16.16.15.1 ISSUING AGENCY:  New Mexico Board of Optometry.

16.16.15.2 SCOPE:  The provisions in Part 15 of Chapter 16 apply to all New Mexico licensed optometrists.

16.16.15.3 STATUTORY AUTHORITY:  Part 15 of Chapter 16 is promulgated pursuant to and in accordance with the Optometry Act, Section 61-2-3, NMSA 1978 and the Pain Relief Act, Sections 24-2D-1 through 24-2D-1-6, NMSA 1978.

16.16.15.4 DURATION:  Permanent.

16.16.15.5 EFFECTIVE DATE:  April 24, 2014, unless a later date is cited at the end of a section.

16.16.15.6 OBJECTIVE:  The objective of Part 15 of Chapter 16 is to set forth rules related to the prescribing and dispensing of controlled substances. It is the position of the board that optometrists have an obligation to treat pain, and that a wide variety of drugs including controlled substances may be prescribed for that purpose. When such controlled substances are used, they should be prescribed in adequate doses and for the appropriate length of time after a thorough evaluation has been completed.

16.16.15.7 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 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 drugs or controlled substances for other than legitimate 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 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.

[16.16.15.7 NMAC - N, 04-24-2014]

16.16.15.8 GUIDELINES: The following regulations shall be used by the board to determine whether an optometrist’s prescriptive practices are consistent with the appropriate treatment of pain.

A. The treatment of pain with drugs or controlled substances is a legitimate optometric 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) An optometrist shall complete an evaluation. 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 for or contra-indication against the use of controlled substance.

(2) An optometrist 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 optometrist 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 optometrist shall discuss the risks and benefits of using controlled substances with the patient, his surrogate or guardian, and shall document this discussion in the record.

(5) Complete and accurate records of care provided and drugs or controlled substances 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 controlled substances shall include indications for use.

(6) The management of patients needing chronic pain control requires monitoring by the optometrist. The optometrist 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. Chronic pain patients shall receive all chronic pain management prescriptions from one optometrist and one pharmacy whenever possible.

(7) In addition, an optometrist shall consult, when indicated by the patient’s condition, with health care professionals who are experienced in the area of chronic pain control; such professionals need not be those who specialize in pain control.

(8) If, in an optometrist’s opinion, a patient is seeking pain medication for reasons that are not medically justified, the optometrist 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 indication for the treatment prescribed; documented change or persistence of the recognized indication; and, follow-up evaluation with appropriate continuity of care. The board will judge the validity of prescribing based on the optometrist’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. An optometrist 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 Optometry Act or board rules.

[16.16.15.8 NMAC - N, 04-24-2014]
16.16.15.9 **OPTOMETRISTS TREATED WITH CONTROLLED SUBSTANCES:** Optometrists who have chronic pain and are being treated with controlled substances shall be evaluated by a pain clinic, 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 controlled substances while continuing to practice. [16.16.15.9 NMAC - N, 04-24-2014]

16.16.15.10 **PRESCRIPTION MONITORING PROGRAM (PMP) REQUIREMENTS:** The intent of the optometry board requiring participation in the PMP is to assist optometrists in balancing the safe use of controlled substances with the need to impede illegal and harmful activities involving these pharmaceuticals.

A. An optometrist 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. An optometrist 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. for a new patient of the optometrist, a patient PMP report for the previous 12 months shall only be required when Schedules III or IV drugs are prescribed for a period greater than 10 days; and
2. for an established patient during the continuous use of controlled substances, a PMP shall be requested a minimum of once every six months.

C. Optometrists qualified and certified by the board may prescribe or administer all pharmaceutical agents for the diagnosis and treatment of disease of the eye or adnexa; provided that an optometrist:

1. may prescribe hydrocodone and hydrocodone combination medications;
2. may administer epinephrine auto-injections to counter anaphylaxis; and
3. shall not prescribe any other controlled substances classified in Schedule I or II pursuant to the Controlled Substances Act, Chapter 30, Article 31 NMSA 1978. [16.16.15.10 NMAC - N, 04-24-2014; A, xx-xx-xxxx]

16.16.15.11 **PAIN MANAGEMENT CONTINUING EDUCATION:** This section applies to all New Mexico optometrists who hold a federal drug enforcement administration registration to prescribe controlled substances. 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. This requirement is effective for the 2015 renewal period beginning July 2, 2014. No later than July 1, 2015 all board licensees shall have completed at least one continuing education hour in a course that shall cover topics related to pain management, pharmacology and risks of controlled substances, state and federal regulations for the prescription of controlled substances, or awareness of the problems of abuse, addiction and diversion as stated in 16.16.13.9 NMAC.

B. The continuing education courses are subject to prior board approval and shall count toward the total continuing education requirements as set forth in 16.16.13.9 NMAC. [16.16.15.11 NMAC - N, 04-24-2014]

16.16.15.12 **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 15 of the New Mexico Optometry board rule:

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. [16.16.15.12 NMAC - N, 04-24-2014]

**HISTORY of 16.16.15 NMAC:** [RESERVED]
16.16.17 NMAC

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16 OPTOMETRIC PRACTITIONERS
PART 17 ADVERTISING

16.16.17.1 ISSUING AGENCY: New Mexico Board of Optometry.
[10-14-95; A, 6-26-00; 16.16.17.1 NMAC - Rn, 16 NMAC 16.17.1, 03-15-2001; A, 07-06-2012]

16.16.17.2 SCOPE: Part 17 of Chapter 16 applies to all optometrists licensed by the Board and practicing in New Mexico.

16.16.17.3 STATUTORY AUTHORITY: The authority for Part 17 of Chapter 16 is NMSA 1978 Section 61-2-13; Section 61-2-14; and Section 61-2-6.D and J. (1995 Repl. Pamp.).

16.16.17.4 DURATION: Permanent.
[10-14-95; 16.16.17.4 NMAC - Rn, 16 NMAC 16.17.4, 03-15-2001]

16.16.17.5 EFFECTIVE DATE: October 14, 1995, unless a later date is cited at the end of a section.

16.16.17.6 OBJECTIVE: The objective of Part 17 of Chapter 16 is to set forth the requirements governing the advertising of optometric services, procedures, and ophthalmic materials in the State of New Mexico.
[10-14-95; 16.16.17.6 NMAC - Rn, 16 NMAC 16.17.6, 03-15-2001]

16.16.17.7 DEFINITIONS: [RESERVED]
[10-14-95; 16.16.17.7 NMAC - Rn, 16 NMAC 16.17.7, 03-15-2001]

16.16.17.8 UNPROFESSIONAL CONDUCT IN ADVERTISING: In accordance with NMSA 1978, Section 61-2-13.D and J (1995 Repl. Pamp.), the Board may refuse to issue, suspend or revoke any license for advertising by means of knowingly false, misleading or deceptive statements or advertising. Any such action constitutes unprofessional conduct.

A. No optometrist shall use, participate in, or permit the use of his/her name in any form of public communication which contains a false, fraudulent, misleading, deceptive, or unfair statement or claim related to the optometrist's examinations or professional services, eye glasses, ophthalmic lenses or frames, contact lenses, specific procedures, or ophthalmic devices.

B. Any advertisement which states the price on ophthalmic materials including, but not limited to, eyeglasses, spectacles, lenses, frames or mountings, shall affirmatively disclose whether the price includes eye examination services. All disclosures must be in type no smaller than ten (10) point type.

C. A false, fraudulent, misleading, deceptive, or unfair statement or claim includes, but is not limited to, a statement or claim which:
   (1) contains a misrepresentation of fact; or
   (2) is likely to mislead or deceive because it fails to make full disclosure of relevant facts; or
   (3) represents that professional services can or will be competently performed for a stated fee when this is not the case, or makes representations with respect to fees for professional services that do not disclose all variables affecting the fees that will, in fact, be charged; or
   (4) contains other representations or implications that in reasonable probability will cause an ordinary prudent person to misunderstand or be deceived.

D. Any advertisement of the price of any ophthalmic lens which does not meet the American National Standards Institute specifications, or which is purchased by the optometrist from a manufacturer or wholesaler who does not warrant that the lens meets the standards of the American National Standards Institute and has not been tested by the optometrist or has been tested and does not meet such standards, shall contain the statement: "Does not meet the American National Standards Institute Specification for the first quality prescription ophthalmic lenses." This statement shall not be abbreviated in any way.
[11-7-80; 6-24-94; 10-14-95; 16.16.17.8 NMAC - Rn, 16 NMAC 16.17.8, 03-15-2001]
16.16.17.9 ADVERTISEMENTS:
A. An optometrist may place advertisements in the yellow pages of the telephone directory. The advertisement must state the following information as provided in Section 57-21-3 of the Advertisement of Health Care Services Act:

1. The optometrist’s name;
2. Address and telephone number of the optometrist's practice location; and
3. The designation of the profession in which the optometrist is licensed to practice: O.D., Optometrist, Doctor of Optometry, or Optometric Physician, as provided in Subsection C of this rule.

B. The advertisement may also describe the nature of the optometrist's practice such as, but not limited to, visual analysis, refraction, and eye examination.

C. New Mexico licensed optometrists [who have been qualified and certified by the Board to administer and prescribe oral or topical pharmaceutical agents as provided in 16.16.7.11 NMAC, the Board’s Rules and Regulations,] shall be allowed to use the designation of “Optometric Physician” in their advertisements. The advertisement may be placed under the “Physicians’ title in the yellow pages under the following conditions:

1. The optometrist identifies his professional designation in his advertisement, and
2. The title heading does not limit the advertisement specifically. For instance: “Physicians M.D.” limits the section only to M.D.s; “Physicians - M.D., Ophthalmologists” limits the section only to M.D.s and/or ophthalmologists.

[11-17-73; 11-7-80; 6-24-94; 10-14-95; 10-15-97; A, 6-26-00; 16.16.17.9 NMAC - Rn, 16 NMAC 16.17.9, 03-15-2001; xx-xx-xxxx]

HISTORY of 16.16.17 NMAC:
Pre-NMAC History:
Material in the part was derived from that previously filed with the commission of public records - state records center and archives:
OEB 73-1, Rule No. 5 of the Administrative Rules and Regulations of the State Board of Examiners in Optometry, filed 10-18-73.
Rule No. 5 - Advertising, filed 8-21-80.
Rule No. 13 - Advertising, Ophthalmic Materials, filed 10-8-80.
NMBO Rule 13 - Advertising, filed 5-25-94.
Rule No. 14 - Advertising, Ophthalmic Frames, Temples, Lenses And/Or Artificial Eyes, filed 10-8-80.
Rule No. 15 - Advertising, Ophthalmic Services, filed 10-8-80.
Rule No. 16 - Advertising, Contact Lenses, filed 10-8-80.
Rule No. 5 - Advertising, filed 5-22-81
NMBO Rule 5 - Advertising, filed 1-7-87.
NMBO Rule 13 - Advertising, filed 5-25-94

History of Repealed Material: [Reserved]

Other History:
16 NMAC 16.17, Advertising, filed 9-21-95, replaced that relevant portion of NMBO Rule 13, Advertising.
16 NMAC 16.17, Advertising, filed 9-21-95, was renumbered and reformatted to 16.16.17 NMAC, Advertising, effective 03-15-2001.
16.16.18.1 ISSUING AGENCY: New Mexico Board of Optometry.
[16.16.18.1 NMAC - N, 03-22-2008; A, 07-06-2012]

16.16.18.2 SCOPE: Provisions of Part 18 of Chapter 16 applies to all New Mexico licensed optometric physicians practicing in New Mexico.
[16.16.18.2 NMAC - N, 03-22-2008]

16.16.18.3 STATUTORY AUTHORITY: The authority for Part 18 of Chapter 16 is the Optometry Act NMSA 1978 Section 61-2-2.A (3).
[16.16.18.3 NMAC - N, 03-22-2008]

16.16.18.4 DURATION: Permanent.
[16.16.18.4 NMAC - N, 03-22-2008]

16.16.18.5 EFFECTIVE DATE: March 22, 2008, unless a later date is cited at the end of a section.
[16.16.18.5 NMAC - N, 03-22-2008]

16.16.18.6 OBJECTIVE: The objective of Part 18 of Chapter 16 is to convey which in-office minor surgical procedures New Mexico optometric physicians are authorized to perform.
[16.16.18.6 NMAC - N, 03-22-2008]

16.16.18.7 DEFINITIONS:
A. “Board” means the New Mexico board of optometry herein referred to as the board.
B. “Optometric physician” means an optometrist who [has been certified by the board to administer and prescribe oral or topical] administers pharmaceutical medications in the diagnosis, treatment and management of ocular diseases as provided in 16.16.7.11 NMAC.
[16.16.18.7 NMAC - N, 03-22-2008; A, 07-06-2012; A, xx-xx-xxxx]

16.16.18.8 MINOR SURGICAL PROCEDURES: A New Mexico optometric physician can use surgery or injections to correct and relieve the following types of abnormalities of the human eye and its adnexa. The following types of in-office minor surgical procedures are allowed:
A. non-laser removal, destruction or drainage of superficial eyelid lesions and conjunctival cysts;
B. probing, dilation, irrigation or closure of the tear drainage structures or the eyelid; scalp use is to be applied only for the purpose of use on the skin surrounding the eye;
C. removal of nonperforating foreign bodies from the cornea, conjunctiva and eyelid;
D. non-laser corneal debridement, culture, scrape or anterior puncture, not including removal of pterygium, corneal biopsy or removal of corneal neoplasias; and
E. removal of eyelashes.
[16.16.18.8 NMAC - N, 03-22-2008]

HISTORY of 16.16.18 NMAC: [RESERVED]