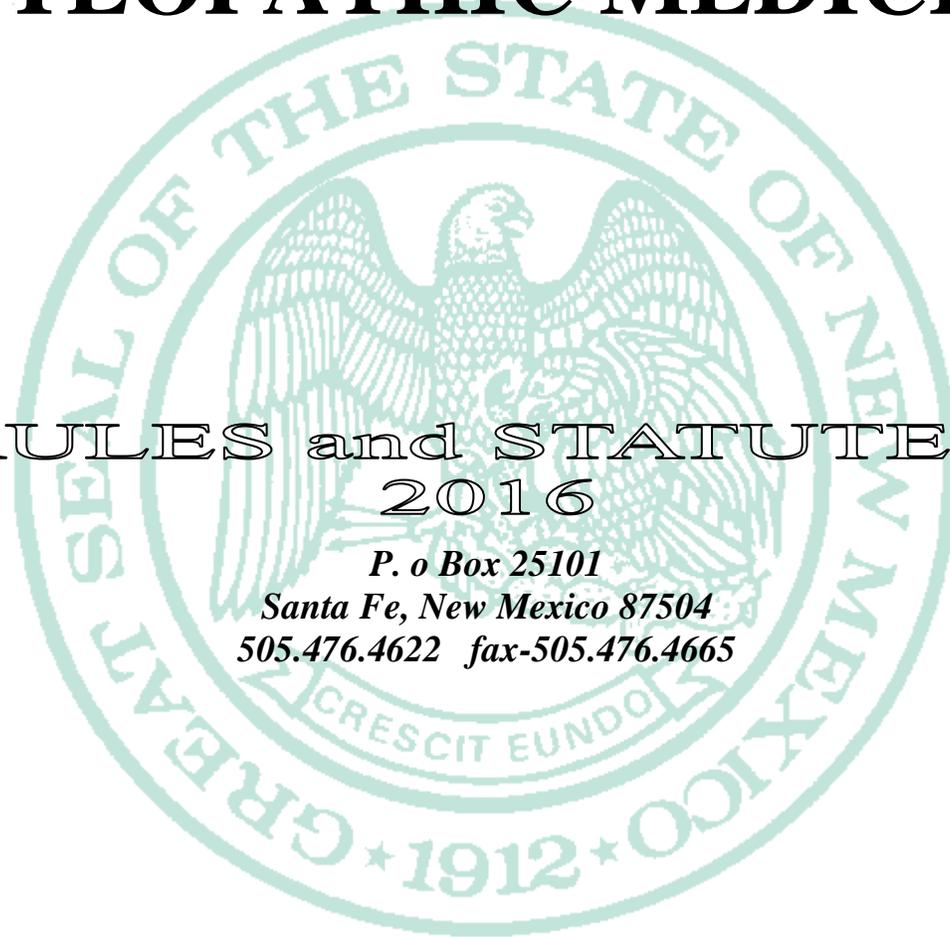


NEW MEXICO
BOARD
OF
OSTEOPATHIC MEDICINE

RULES and STATUTES
2016

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RULES AND STATUES

ARTICLE 10

61-10-1. Repealed.

61-10-1.1. Short title. (Repealed effective July 1, 2022.)

61-10-1.2. Definitions. (Repealed effective July 1, 2022.)

As used in the Osteopathic Medicine Act:

- A. "administer" means to apply a prepackaged drug to the body of a patient by any means;
- B. "board" means the board of osteopathic medicine;
- C. "dispense" means to deliver a drug directly to a patient and includes the compounding, labeling and repackaging of a drug from a bulk or original container;
- D. "distribute" means to administer or supply directly to a patient under the direct care of the distributing osteopathic physician's assistant one or more doses of drugs prepackaged by a licensed pharmacist and excludes the compounding or repackaging from a bulk or original container;
- E. "health care practitioner" means an individual licensed, certified or otherwise authorized or permitted by law to provide health care in the ordinary course of business or practice of a profession;
- F. "osteopathic medicine" means the complete system or school of osteopathic medicine governed by the Osteopathic Medicine Act;
- G. "osteopathic physician" means a physician licensed to practice osteopathic medicine in New Mexico;
- H. "osteopathic physician assistant" means a skilled person licensed by the board as being qualified by academic and practical training to provide patient services under supervision as provided by the Osteopathic Medicine Act;
- I. "pharmacist clinician" means a pharmacist who exercises prescriptive authority pursuant to the Pharmacist Prescriptive Authority Act [[61-11B-1](#) through [61-11B-3](#) NMSA 1978];
- J. "prescribe" means to issue an order individually for the person for whom prescribed, either directly from the prescriber to the pharmacist or indirectly by means of a written order signed by the prescriber, bearing the name and address of the prescriber, the prescriber's license classification, the name and address of the patient and the name of the drug prescribed, directions for its use and the date of its issue; and
- K. "supervising physician" means a physician licensed under the Medical Practice Act [Chapter [61](#), Article [6](#) NMSA 1978] or an osteopathic physician.

61-10-2. Criminal offender's character evaluation. (Repealed effective July 1, 2022.)

The provisions of the Criminal Offender Employment Act [[28-2-1](#) through [28-2-6](#) NMSA 1978] shall govern any consideration of criminal records required or permitted by the Osteopathic Medicine Act.

61-10-3. License. (Repealed effective July 1, 2022.)

It is unlawful for any person to practice as an osteopathic physician in this state without a license issued by the board; provided that any license or certificate previously issued under the laws of this state authorizing its holder to practice osteopathic medicine shall in no way be affected by the provisions of the Osteopathic Medicine Act.

61-10-4. Other schools not affected. (Repealed effective July 1, 2022.)

This act shall in no way affect the practice of allopathy, homeopathy, eclectic and chiropractic by those duly licensed to practice allopathy, homeopathy, eclectic or chiropractic under the laws of this state.

61-10-5. Board of osteopathic medicine; appointment; terms; meetings; membership; examinations; duties; powers. (Repealed effective July 1, 2022.)

A. The "board of osteopathic medicine" is created. The board shall be administratively attached to the regulation and licensing department. The board shall consist of seven members appointed by the governor as follows:

(1) five members with at least two years of experience in their respective fields immediately preceding their appointment who are licensed as follows:

(a) four members who are osteopathic physicians licensed in good standing pursuant to Section [61-10-8](#) NMSA 1978; and

(b) one member who is an osteopathic physician assistant licensed in good standing pursuant to the Osteopathic Medicine Act; and

(2) two public members. The public members of the board shall not:

(a) have been licensed as osteopathic physicians or as osteopathic physician assistants; or

(b) have any significant financial interest, direct or indirect, in the occupation regulated.

B. The governor shall appoint board members who are osteopathic physicians and osteopathic physician assistants respectively from a list of five qualified osteopathic physicians and five osteopathic physician assistants that the New Mexico osteopathic medical association or its authorized governing body or council provides.

C. The board shall:

(1) issue licenses to individuals who meet the qualifications for licensure as osteopathic physicians or osteopathic physician assistants;

(2) discipline osteopathic physicians and osteopathic physician assistants for incompetence or unprofessional or dishonorable conduct;

(3) protect the public from the unauthorized practice of osteopathy;

(4) enforce and administer the provisions of the Osteopathic Medicine Act;

(5) adopt and promulgate in accordance with the Uniform Licensing Act [[61-1-1](#) through [61-1-31](#) NMSA 1978] and the State Rules Act [Chapter [14](#), Article [4](#) NMSA 1978] all rules for the implementation and enforcement of the Osteopathic Medicine Act. Rulemaking shall include adoption and promulgation of rules related to the management of pain based on a review of national standards for pain management;

(6) adopt and use a seal;

(7) administer oaths to applicants, witnesses and others appearing before the board, as the board deems appropriate;

(8) take testimony on matters within the board's jurisdiction;

(9) adopt and promulgate rules relating to the oversight of osteopathic physicians who supervise pharmacist clinicians;

(10) keep an accurate record of all of its meetings, receipts and disbursements;

(11) maintain records in which the name, address and license number of all licensees shall be recorded, together with a record of all license renewals, suspensions, revocations, probations, stipulations, censures, reprimands and fines;

(12) grant, deny, review, suspend and revoke licenses to practice osteopathic medicine and censure, reprimand, fine and place on probation and stipulation licensees and applicants in accordance with the Uniform Licensing Act for any cause stated in the Osteopathic Medicine Act;

(13) hire or contract with investigators as it deems necessary to investigate possible violations of the Osteopathic Medicine Act;

(14) establish continuing medical education requirements that coincide with continuing medical education cycles of the American osteopathic association for licensed osteopathic physicians and osteopathic physician assistants; and

(15) establish committees as it deems necessary for executing board duties.

D. The board may adopt and enforce rules for osteopathic physician assistants for:

(1) establishing qualifications of education, skill and experience for licensure of a person as an osteopathic physician assistant and providing forms and procedures for licensure and for biennial registration of supervision;

(2) examining and evaluating applicants for licensure as an osteopathic physician assistant as to their skill, knowledge and experience in the field of medical care;

(3) establishing when and for how long an osteopathic physician assistant is permitted to prescribe, administer and distribute dangerous drugs other than controlled substances in Schedule I of the Controlled Substances Act [Chapter [30](#), Article [31](#) NMSA 1978] after consultation with the board of pharmacy;

(4) allowing a supervising osteopathic physician to temporarily delegate supervisory responsibilities for an osteopathic physician assistant to another supervising physician;

(5) allowing an osteopathic physician assistant to temporarily serve under a supervising physician other than the supervising physician of record; and

(6) the purpose of carrying out all other provisions of the Osteopathic Medicine Act.

E. Board members shall be appointed for staggered terms of four years so that not more than three members' terms expire in any one year. A board member shall not serve more than two consecutive terms. The vacancy of the term of a member shall be filled by appointment by the governor to the unexpired portion of the four-year term. A board member whose term has expired shall serve until the member's successor is appointed.

F. The board shall meet at the call of the chair at least three times a year and may hold other meetings as the chair deems necessary. A majority of the board constitutes a quorum.

G. The board shall have an annual election of a chair and a vice chair and other officers as it deems necessary.

H. The chair shall preside over the meetings and affairs of the board. The vice chair shall perform those duties that the chair assigns and shall serve as chair when the chair is absent.

I. Members of the board are entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act [[10-8-1](#) through [10-8-8](#) NMSA 1978], but shall receive no other compensation, perquisite or allowance, for each day necessarily spent in the discharge of their duties.

J. A board member failing to attend three consecutive meetings, either regular or special, shall automatically be removed as a member of the board unless excused for reasons established in board rules.

61-10-5.1. Board communication; protected actions. (Repealed effective July 1, 2022.)

Statute text

A. A report to the board regarding actual or potential disciplinary action, including a complaint, shall be a confidential communication and is not a public record for the purposes of the Inspection of Public Records Act [Chapter [14](#), Article [3](#) NMSA 1978].

B. Any data, communication or information that the board acquires, prepares or disseminates relating to actual or potential disciplinary action or its investigation of a complaint shall not be disclosed except to the extent necessary to:

(1) carry out the duties of the board;

(2) make a judicial appeal of a board action; or

(3) refer a case to a law enforcement agency, a national database clearinghouse or another licensing board.

C. Information contained in a complaint filed with the board may be disclosed when the board or a court acts on a complaint and:

- (1) issues a notice of contemplated action; or
- (2) reaches a settlement before issuing a notice of contemplated action.

D. A person shall not be subject to any civil damages or criminal prosecution for providing information to the board, whether as a report, a complaint or as testimony.

61-10-6. Licensure; requirements. (Repealed effective July 1, 2022.)

A. The board may consider for licensure an individual who:

- (1) is a graduate of a school of osteopathic medicine accredited by the commission on osteopathic college accreditation and recognized by the American osteopathic association;
- (2) has successfully passed all three levels of the comprehensive osteopathic medical licensing examination, its predecessor examination or the United States medical licensing examination; provided that the board shall not grant a license to an applicant who has not passed the final level of the respective examination within seven years of having successfully passed the first level of that examination;
- (3) provides evidence to the board of having completed at least two years of a board-approved nationally accredited post-graduate training program; and
- (4) makes an application in accordance with board rules and pays the fees required pursuant to Section [61-10-6.1](#) NMSA 1978.

B. An applicant who has not completed two years of a board-approved nationally accredited post-graduate training program, but who otherwise meets all other licensing requirements, may present evidence to the board of the applicant's other professional experience for consideration by the board in lieu of the approved post-graduate program required pursuant to Paragraph (3) of Subsection A of this section.

C. As a condition of licensure, the board may require an applicant for licensure to:

- (1) appear personally before the board or its designated agent for an interview; or
- (2) be fingerprinted and supply any other information necessary to obtain a state or national criminal background check; provided that an applicant shall pay any fees for a criminal background check directly to the screening entity that performs the check.

61-10-6.1. Fees. (Repealed effective July 1, 2022.)

The board may charge the following fees; provided that all fees are nonrefundable and shall be used by the board to carry out its duties:

A. pertaining to osteopathic physicians:

- (1) an application fee not to exceed one thousand dollars (\$1,000) for triennial licensure of an osteopathic physician pursuant to Section [61-10-12](#) NMSA 1978;
- (2) a triennial osteopathic physician licensure renewal fee not to exceed one thousand dollars (\$1,000);
- (3) a fee not to exceed seventy-five dollars (\$75.00) for placing an osteopathic physician license on inactive status;
- (4) a late fee not to exceed:
 - (a) two hundred dollars (\$200) for osteopathic physicians who fail to renew their licenses on or before July 1 of the year in which their triennial licenses are due for renewal but who renew on or before September 29 of that year; and
 - (b) four hundred dollars (\$400) for osteopathic physicians who renew their licenses after September 29;
- (5) a reinstatement fee not to exceed five hundred dollars (\$500) for reinstatement of a revoked, suspended or inactive osteopathic physician license;

- (6) a temporary license fee not to exceed one hundred dollars (\$100);
 - (7) a post-graduate osteopathic physician training license fee not to exceed fifty dollars (\$50.00);
 - (8) an osteopathic physician telemedicine triennial license fee not to exceed four hundred dollars (\$400); and
 - (9) an impaired physician fee not to exceed one hundred dollars (\$100);
- B. pertaining to osteopathic physician assistants:
- (1) a biennial license fee not to exceed four hundred fifty dollars (\$450);
 - (2) a registration of new supervision fee that is equal to one-half of the biennial license fee for osteopathic physician assistants;
 - (3) a late fee not to exceed twenty-five dollars (\$25.00) for osteopathic physician assistants who fail to renew their licenses on or before July 1 of the year in which their biennial licenses are due for renewal;
 - (4) an impaired osteopathic physician assistant fee not to exceed one hundred dollars (\$100); and
 - (5) a fee for an osteopathic physician assistant license on inactive status not to exceed seventy-five dollars (\$75.00); and
- C. pertaining to osteopathic physician and osteopathic physician assistant licensees or applicants:
- (1) a fee not to exceed five hundred dollars (\$500) for reprocessing an application or renewal that includes errors that would otherwise be subject to investigation and possible disciplinary action; and
 - (2) a reasonable administrative fee that the board establishes by rule for verification of license, publications and copying charges.

61-10-7. Temporary license; qualifications. (Repealed effective July 1, 2022.)

Statute text

- A. In the interim between regular board meetings, the board's chair or an authorized representative of the board shall issue a temporary license to practice as an osteopathic physician or osteopathic physician assistant to a qualified applicant who has filed a complete application for licensure in accordance with the Osteopathic Medicine Act and board rules. The temporary license shall expire on the date of the next regular meeting of the board, at which time the board shall grant final approval.
- B. Upon written application, accompanied by proof of qualifications as specified by board rules, the board may issue a temporary license to an applicant who seeks temporary licensure to:
- (1) provide services at an organized youth camp or school; provided that the practice of osteopathic medicine shall be confined to enrollees, leaders and employees of the camp or school;
 - (2) assist in teaching;
 - (3) conduct research;
 - (4) perform a specialized diagnostic and treatment procedure;
 - (5) implement new technology; or
 - (6) pursue an educational purpose.
- C. The board shall grant a temporary license only to an applicant who:
- (1) submits a written application and accompanies the application with proof of qualifications as specified in board rules;
 - (2) pays a temporary license fee pursuant to Section [61-10-6.1](#) NMSA 1978; and
 - (3) is supervised by an osteopathic physician who is licensed in New Mexico and who submits an affidavit attesting to the qualifications of the applicant and the activities that the applicant will perform.
- D. The board shall issue a temporary license that is valid for a period not to exceed three months from the date of issuance. A temporary license may be renewed up to six times for a period not to exceed eighteen months.
- E. A temporary license shall:
- (1) describe the activities to which the licensee shall be limited; and

(2) identify the osteopathic physician who will supervise the applicant during the time the applicant practices osteopathic medicine in the state.

61-10-8. Professional education. (Repealed effective July 1, 2022.)

A. After July 1, 2016, a first-time applicant for licensure to practice as an osteopathic physician shall:

- (1) be a graduate of a college of osteopathic medicine accredited by the commission on osteopathic college accreditation and recognized by the American osteopathic association; and
- (2) have completed at least two years of post-graduate training approved by the American osteopathic association or the accreditation council for graduate medical education.

B. An osteopathic physician who has been licensed in this state or another state of the United States before July 1, 2016 shall have completed at least one year of post-graduate training approved by the American osteopathic association or the accreditation council for graduate medical education.

61-10-9. Repealed.

61-10-10. Examination. (Repealed effective July 1, 2022.)

The examination of those who desire to practice under this act shall embrace those general subjects and topics including:

1. anatomy	8. therapeutics
2. chemistry	9. surgery
3. physiology	10. gynecology
4. pathology	11. obstetrics
5. preventive medicine	12. medical jurisprudence
6. diagnosis	13. practice of osteopathic medicine; and
7. toxicology	

a knowledge of which is commonly and generally required of candidates for the degree of doctor of osteopathic medicine by a standard osteopathic college in the United States.

61-10-11. License issued. (Repealed effective July 1, 2022.)

The board shall issue to each applicant for a license to practice as provided in the Osteopathic Medicine Act who has the required education qualifications and meets the requirements of that act a license that carries with it the title doctor of osteopathic medicine and osteopathic physician with right to practice as taught and practiced in the standard colleges of osteopathic medicine.

61-10-11.1. Telemedicine license. (Repealed effective July 1, 2022.)

A. The board shall issue a telemedicine license to allow the practice of osteopathic medicine across state lines to an applicant who holds a full and unrestricted license to practice osteopathic medicine in another state or territory of the United States. The board shall establish by rule the requirements for licensure; provided the requirements shall not be more restrictive than those required for licensure by endorsement.

B. A telemedicine license shall be issued for a period not to exceed three years and may be renewed upon application, payment of fees as provided in the Osteopathic Medicine Act and compliance with other requirements established by rule of the board.

61-10-11.2. Osteopathic physician assistant; licensure; scope of authority; registration of supervision; change of supervision. (Repealed effective July 1, 2022.)

A. No person shall perform or attempt to perform as an osteopathic physician assistant without first applying for and obtaining a license from the board as an osteopathic physician assistant and having the person's supervision registered in accordance with board regulations.

B. Osteopathic physician assistants may prescribe, administer and distribute dangerous drugs other than controlled substances in Schedule I of the Controlled Substances Act [Chapter [30](#), Article [31](#) NMSA 1978] pursuant to regulations adopted by the board after consultation with the board of pharmacy if the prescribing, administering and distributing are done under the direction of a supervising physician; provided that such prescribing, administering and distributing are within the parameters of a board-approved formulary and guidelines established pursuant to Paragraph (3) of Subsection D of Section [61-10-5](#) NMSA 1978. The distribution process shall comply with state laws concerning prescription packaging, labeling and recordkeeping requirements.

C. An osteopathic physician assistant shall perform only those acts and duties assigned by a supervising physician that are within the scope of practice of such physician.

D. An applicant for a license as an osteopathic physician assistant shall complete application forms that the board supplies and pay a fee as provided in Section [61-10-6.1](#) NMSA 1978. Upon licensing by the board, the applicant shall have the applicant's name and address and other pertinent information enrolled by the board on a roster of osteopathic physician assistants.

E. Each osteopathic physician assistant shall biennially submit proof of completion of continuing education as required by the board and register the osteopathic physician assistant's name and current address, the name and office address of the supervising physician and such additional information as the board deems necessary.

F. In addition to the biennial requirements regarding the osteopathic physician assistant's supervising physician in Subsection E of this section, each osteopathic physician assistant has an ongoing duty to notify the board of a termination of supervision and to register the name and office address of a new supervising physician and the date on which supervision will commence. Each biennial registration or registration of new supervision shall be accompanied by a fee as provided in Section [61-10-6.1](#) NMSA 1978.

61-10-11.3. Osteopathic physician assistants; inactive license. (Repealed effective July 1, 2022.)

A. An osteopathic physician assistant who notifies the board in writing on forms prescribed by the board may elect to place the osteopathic physician assistant's license on an inactive status. An osteopathic physician assistant with an inactive license shall be excused from payment of renewal fees and shall not practice as an osteopathic physician assistant.

B. An osteopathic physician assistant who engages in practice while the osteopathic physician assistant's license is lapsed or on inactive status is practicing without a license and is subject to discipline pursuant to the Osteopathic Medicine Act.

C. An osteopathic physician assistant requesting restoration from inactive status shall pay the current renewal fee and fulfill the requirement for renewal pursuant to the Osteopathic Medicine Act.

61-10-11.4. Osteopathic physician assistants; exemption from licensure. (Repealed effective July 1, 2022.)

A. An osteopathic physician assistant student enrolled in a physician assistant or osteopathic physician assistant educational program accredited by the commission on accreditation of allied health education programs or by its successor shall be exempt from licensure while functioning as an osteopathic physician assistant student.

B. An osteopathic physician assistant employed by the federal government while performing duties incident to that employment is not required to be licensed as an osteopathic physician assistant pursuant to the Osteopathic Medicine Act.

61-10-11.5. Responsibility. (Repealed effective July 1, 2022.)

Every osteopathic physician using, supervising or employing a registered osteopathic physician assistant shall be individually responsible and liable for the performance of the acts and omissions delegated to the osteopathic physician assistant. Nothing in the Osteopathic Medicine Act shall be construed to relieve the osteopathic physician assistant of responsibility and liability for any of the osteopathic physician assistant's own acts and omissions. An osteopathic physician assistant shall be supervised by an osteopathic physician in accordance with board rules.

61-10-12. License without examination. (Repealed effective July 1, 2022.)

The board may, in its discretion, issue a license without examination to an osteopathic physician who has been licensed in any country, state, territory or province and who is a graduate of a standard college of osteopathic medicine upon the following conditions:

- A. that the applicant is of good moral character;
- B. that the requirements to practice in the country, state, territory or province in which the applicant is already licensed are equal to those of this state; and
- C. that the applicant shall be required to pay the fee designated for such license in Section [61-10-6.1](#) NMSA 1978.

The board may also, in its discretion, issue a license without examination to an osteopathic physician who is a graduate of a standard college of osteopathic medicine and who has passed an examination for admission into the medical corps of any branch of the armed forces of the United States or the United States public health service.

61-10-13. Repealed.

61-10-14. Privileges and obligations; presence on hospital staffs; intent of act. (Repealed effective July 1, 2022.)

Osteopathic physicians and surgeons licensed hereunder shall have equal rights, privileges and obligations in the handling of cases and rendering of medical services in all branches and phases of the healing arts as are accorded or permitted physicians and surgeons of other schools of practice; that such general rights shall extend to the rendering of medical services under the provisions of public health, welfare, assistance laws and other fields of public medicine, and no regulations shall be made with respect thereto limiting, excluding or discriminating against osteopathic physicians and surgeons.

Osteopathic physicians and surgeons shall also have the right to register under the laws of the United States governing narcotics. Osteopathic physicians shall observe and be subject to all state and municipal regulations relative to the reporting of births and deaths and all matters pertaining to the public health with equal rights and obligations as physicians and surgeons of other schools of medicine, and such reports shall be accepted by the officers of the departments to which they are made.

- A. That the rights, benefits and obligations conferred by this act upon licensed osteopathic physicians and surgeons shall not be construed as taking from the governing authorities of all state, county and municipal hospitals, or from any publicly supported hospital either in whole or in part the complete control and management of such hospitals with power to make rules and regulations for the operations of such hospitals and to determine who will be on the staff of such hospitals; nor shall this act be construed as taking from the governing authorities of any hospital or other institution owned,

61-10-15. Refusal and revocation of license. (Repealed effective July 1, 2022.)

A. Upon satisfactory proof being made to the board that an applicant for or holder of a license to practice osteopathic medicine has been guilty of unprofessional or dishonorable conduct, the board may:

- (1) refuse to issue a license to an applicant;
- (2) revoke or suspend a license; or
- (3) fine, censure or reprimand a licensee.

B. The board may, in its discretion and for good cause shown, place a licensee on probation on the terms and conditions it deems proper for protection of the public or for the purpose of rehabilitation of the probationer, or both. Upon expiration of the term of probation, if a term is set, the board may abate further proceedings if the licensee furnishes the board with evidence that the licensee is competent to practice and has complied with the terms of probation.

C. If evidence fails to establish to the satisfaction of the board that the licensee is competent or if evidence shows that the licensee has not complied with the terms of probation, the board may revoke or suspend the licensee's license. If the board suspends a license, the licensee shall not practice during the term of suspension. A licensee whose license has been revoked or is in suspension and who thereafter practices or attempts or offers to practice in the state is guilty of a fourth degree felony and shall be sentenced under the provisions of the Criminal Sentencing Act [Chapter [31](#), Article [18](#) NMSA 1978] to imprisonment for a definite period not to exceed eighteen months and, in the discretion of the sentencing court, to a fine not to exceed five thousand dollars (\$5,000), or both, unless:

- (1) the period of suspension has expired;
- (2) the board has modified the suspension to permit the practice of osteopathic medicine; or
- (3) the board has reinstated the license.

D. The board shall not refuse to issue or renew a license nor shall it suspend or revoke a license for unprofessional or dishonorable conduct unless the person accused has been provided:

- (1) at least twenty days' notice in writing of the charge against that person; and
- (2) a public hearing by the board, with right of review of the board's decision by the district court of the first judicial district by certiorari, on petition of the party against whom the board's decision is rendered.

E. The board may compel the attendance of witnesses and the production of relevant books and papers for the investigation of matters that may come before it, and the presiding officer of the board may administer the requisite oaths. The board has the same authority to compel the giving of testimony that is conferred on courts of justice.

F. As used in this section:

- (1) "fee splitting" means offering, delivering, receiving or accepting any unearned rebate, refund, commission preference, patronage dividend, discount or other unearned consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients or customers to a person or organization, irrespective of any membership, proprietary interest or co-ownership in or with a person to whom the patients, clients or customers are referred; and
- (2) "unprofessional or dishonorable conduct" means conduct that the board has proscribed by rule and includes the following conduct of a licensee:
 - (a) procuring, aiding or abetting an illegal procedure;
 - (b) employing a person to solicit patients for the licensee;
 - (c) representing to a patient that a manifestly incurable condition of sickness, disease or injury can be cured;
 - (d) obtaining a fee by fraud or misrepresentation;
 - (e) willfully or negligently divulging a professional confidence;

- (f) conviction of an offense punishable by incarceration in a state penitentiary or federal prison or conviction of a misdemeanor associated with the practice of the licensee. A copy of the record of conviction, certified by the clerk of the court entering the conviction, is conclusive evidence of conviction;
- (g) habitual or excessive use of intoxicants or drugs;
- (h) fraud or misrepresentation in applying for or procuring a license to practice in this state or in connection with applying for or procuring renewal, including cheating on or attempting to subvert a licensing examination;
- (i) making false or misleading statements regarding the skill of the licensee or the efficacy or value of the medicine, treatment or remedy prescribed or administered by the licensee or at the direction of the licensee in the treatment of a disease or other condition of the human body or mind;
- (j) impersonating another licensee, permitting or allowing a person to use the license of the licensee or practicing as a licensee under a false or assumed name;
- (k) aiding or abetting the practice of a person not licensed by the board;
- (l) gross negligence in the practice of a licensee;
- (m) manifest incapacity or incompetence to practice as a licensee;
- (n) discipline imposed on a licensee by another state, including denial, probation, suspension or revocation, based upon acts by the licensee similar to acts described in this section. A certified copy of the record of suspension or revocation of the state making the suspension or revocation is conclusive evidence;
- (o) the use of a false, fraudulent or deceptive statement in a document connected with the practice of a licensee;
- (p) fee splitting;
- (q) the prescribing, administering or dispensing of narcotic, stimulant or hypnotic drugs for other than accepted therapeutic purposes;
- (r) conduct likely to deceive, defraud or harm the public;
- (s) repeated similar negligent acts;
- (t) employing abusive billing practices;
- (u) failure to report to the board any adverse action taken against the licensee by: 1) another licensing jurisdiction; 2) a peer review body; 3) a health care entity; 4) a professional or medical society or association; 5) a governmental agency; 6) a law enforcement agency; or 7) a court for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action;
- (v) failure to report to the board surrender of a license or other authorization to practice in another state or jurisdiction or surrender of membership on any medical staff or in any medical or professional association or society following, in lieu of and while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action;
- (w) failure to furnish the board, its investigators or representatives with information requested by the board;
- (x) abandonment of a patient;
- (y) being found mentally incompetent by a court of competent jurisdiction;
- (z) injudicious prescribing, administering or dispensing of a drug or medicine;
- (aa) failure to adequately supervise, as provided by board rule, an osteopathic physician or osteopathic physician assistant;
- (bb) sexual contact with a patient or person who has authority to make medical decisions for a patient, other than the spouse of the licensee;
- (cc) conduct unbecoming in a person licensed to practice or detrimental to the best interests of the public;

- (dd) the surrender of a license or withdrawal of an application for a license before another state licensing board while an investigation or disciplinary action is pending before that board for acts or conduct similar to acts or conduct that would constitute grounds for action pursuant to this section;
- (ee) sexual contact with a former patient of the licensee, other than the spouse of the licensee, within one year from the end of treatment;
- (ff) sexual contact with a patient when the licensee uses or exploits treatment, knowledge, emotions or influence derived from the previous professional relationship;
- (gg) improper management of medical records, including failure to maintain timely, accurate, legible and complete medical records;
- (hh) failure to provide pertinent and necessary medical records to another health care practitioner, to the patient of the osteopathic physician or to any other person in a timely manner when legally requested or authorized to do so by the patient or by a legally designated representative of the patient;
- (ii) interaction with osteopathic physicians, hospital personnel, patients, family members or others that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient; or
- (jj) willfully or negligently divulging privileged information or a professional secret.

61-10-15.1. Licensure; summary suspension; summary restriction; grounds. (Repealed effective July 1, 2022.)

A. The board may suspend or restrict a license to practice osteopathic medicine in New Mexico issued by the board without a hearing, simultaneously or at any time after the initiation of proceedings for a hearing provided pursuant to the Uniform Licensing Act [[61-1-1](#) through [61-1-31](#) NMSA 1978], 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;
- (3) has pled guilty to or has been found guilty of any offense relating to the practice of osteopathic medicine or any violent criminal offense in this state or a substantially equivalent criminal offense in another jurisdiction; or
- (4) uses conversion therapy on a minor.

B. A licensee shall not be required to comply with a summary suspension or restriction of a license until notice has been served in accordance with procedures established in board rules or the licensee has actual knowledge of an order of suspension or restriction, whichever occurs first.

C. A licensee whose license is suspended or restricted pursuant to this section shall be entitled to a hearing before the board pursuant to the Uniform Licensing Act within fifteen days from the date the licensee requests a hearing.

D. As used in this section:

- (1) "conversion therapy" means any practice or treatment that seeks to change a person's sexual orientation or gender identity, including any effort to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward persons of the same sex. "Conversion therapy" does not mean:
 - (a) counseling or mental health services that provide acceptance, support and understanding of a person without seeking to change gender identity or sexual orientation; or
 - (b) mental health services that facilitate a person's coping, social support, sexual orientation or gender identity exploration and development, including an intervention to prevent or address unlawful conduct or unsafe sexual practices, without seeking to change gender identity or sexual orientation;
- (2) "gender identity" means a person's self-perception, or perception of that person by another, of the person's identity as a male or female based upon the person's appearance, behavior or physical

characteristics that are in accord with or opposed to the person's physical anatomy, chromosomal sex or sex at birth;

(3) "minor" means a person under eighteen years of age; and

(4) "sexual orientation" means heterosexuality, homosexuality or bisexuality, whether actual or perceived.

61-10-16. Penalties. (Repealed effective July 1, 2022.)

Each of the following acts constitutes a misdemeanor punishable upon conviction by a fine of not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200):

A. the practice of osteopathic medicine or an attempt to practice osteopathic medicine without a license;

B. the obtaining of, or attempting to obtain a license, or practice in the profession, for money or any other things of value by fraudulent misrepresentation;

C. the making of any wilfully false oath, or affirmation, when an oath or affirmation is required by this act; or

D. advertising, practicing or attempting to practice under a name other than one's own.

61-10-16.1. Practicing without license; penalty. (Repealed effective July 1, 2022.)

A. A person who practices osteopathic medicine or who attempts to practice osteopathic medicine without first complying with the provisions of the Osteopathic Medicine Act and without being the holder of a license entitling the person to practice osteopathic medicine in New Mexico is guilty of a fourth degree felony.

B. A person who practices osteopathic medicine across state lines or who attempts to practice osteopathic medicine across state lines without first complying with the provisions of the Osteopathic Medicine Act and without being the holder of a telemedicine license entitling the person to practice osteopathic medicine across state lines is guilty of a fourth degree felony.

C. A person convicted pursuant to Subsection A or B of this section shall be sentenced under the provisions of the Criminal Sentencing Act [Chapter [31](#), Article [18](#) NMSA 1978] to imprisonment for a definite period not to exceed eighteen months and, in the discretion of the sentencing court, to a fine not to exceed five thousand dollars (\$5,000), or both. Each occurrence of practicing osteopathic medicine or attempting to practice osteopathic medicine without complying with the Osteopathic Medicine Act shall be a separate violation.

61-10-17. Records. (Repealed effective July 1, 2022.)

The board shall keep a record, which shall be open to all proper parties for inspection at all reasonable times, of its proceedings relating to the issuance, refusal, renewal, suspension or revocation of licenses to practice in accordance with the Osteopathic Medicine Act. This record shall also contain the name, place of business and residence, the date and the number of the license of every osteopathic physician and osteopathic physician assistant licensed under the Osteopathic Medicine Act.

61-10-18. No additional power conferred on prior licensees. (Repealed effective July 1, 2022.)

Nothing contained in the Osteopathic Medicine Act shall be construed as conferring any powers or authority not previously vested in osteopathic physicians or osteopathic physician assistants who hold licenses to practice osteopathic medicine under any pre-existing law or regulation unless such licensees are likewise licensed under the provisions of the Osteopathic Medicine Act.

61-10-19. Renewal of license; certificate; fee. (Repealed effective July 1, 2022.)

A. All osteopathic physicians legally licensed to practice osteopathic medicine in this state shall, on or before July 1 of the third year after first-time licensure or the last licensure renewal, submit proof

of completion of continuing education requirements as required by the board and pay to the secretary of the board a triennial renewal fee as provided in Section [61-10-6.1](#) NMSA 1978 for the renewal of a license to practice osteopathic medicine. Upon payment of fees and proof of completion of continuing education requirements, the board shall issue a certificate of triennial renewal of license.

B. All osteopathic physician assistants legally licensed to practice osteopathic medicine in this state shall, on or before July 1 of the second year after first-time licensure or the last licensure renewal, submit proof of completion of continuing education requirements as required by the board and pay to the secretary of the board a biennial renewal fee as provided in Section [61-10-6.1](#) NMSA 1978 for the renewal of a license to practice osteopathic medicine. Upon payment of fees and proof of completion of continuing education requirements, the board shall issue a certificate of biennial renewal of license.

C. The chair of the board shall send a written notice to every osteopathic physician and osteopathic physician assistant holding a legal certificate to practice osteopathic medicine in this state at least thirty days prior to July 1 of the year in which the osteopathic physician or osteopathic physician assistant is due for renewal of licensure. The notice shall be directed to the last known address of the licensee, and notify the licensee that it will be necessary to pay the license renewal fee. Proper forms shall accompany the notice, and the licensee shall make application for the renewal of the licensee's certificate on these forms. The fact that a licensee has not received the licensee's blank form from the board shall not, however, relieve the licensee of the duty to register on or before July 1 of the year of renewal nor shall the board's failure to mail the forms operate to exempt the osteopathic physician or osteopathic physician assistant from the penalties provided in the Osteopathic Medicine Act.

61-10-20. Post-graduate educational requirements. (Repealed effective July 1, 2022.)

For the purpose of protecting the health and well-being of the citizens of this state and for maintaining and continuing informed professional knowledge and awareness, the board shall establish mandatory continuing educational requirements for osteopathic physicians and osteopathic physician assistants licensed in this state. In establishing these requirements, the board shall recognize and give weight to existing educational methods, procedures, devices and programs in use among the various medical specialties and other recognized medical groups and the consensus of the members of the medical community. This section does not abrogate or affect the status, force or operation of the Uniform Licensing Act [[61-1-1](#) through [61-1-31](#) NMSA 1978]. The board shall not establish and enforce these requirements if they will reduce the availability of osteopathic physicians or osteopathic physician assistants in a community to an extent that adequate medical care is jeopardized.

61-10-21. Failure to comply; cancellation of license; reinstatement; temporary cancellation at licensee's request. (Repealed effective July 1, 2022.)

A. In the event any osteopathic physician or osteopathic physician assistant licensed to practice osteopathic medicine in New Mexico fails to comply with the requirements of Section [61-10-19](#) NMSA 1978, the licensee shall, upon order of the board, forfeit the licensee's right to practice osteopathic medicine in this state and the licensee's license and certificate shall be canceled; provided, however, that the chair of the board may reinstate the licensee upon the payment of all fees due and upon the presentation of satisfactory evidence of the attendance at an educational program as provided for in the Osteopathic Medicine Act.

B. It is further provided that any osteopathic physician or osteopathic physician assistant licensed to practice osteopathic medicine in New Mexico desiring to withdraw from the active practice of osteopathic medicine in this state shall have the right to apply to the chair of the board for a temporary suspension of the licensee's certificate to practice osteopathic medicine in this state, with the right to renew and reinstate the certificate if the licensee so desires, upon a showing that the licensee has paid the appropriate fees on or before July 1 of the year in which the license is due for renewal.

61-10-22. Termination of agency life; delayed repeal. (Repealed effective July 1, 2022.)

The board of osteopathic medicine is terminated on July 1, 2021 pursuant to the Sunset Act [[12-9-11](#) through [12-9-21](#) NMSA 1978]. The board shall continue to operate according to the provisions of the Osteopathic Medicine Act until July 1, 2022. Effective July 1, 2022, the Osteopathic Medicine Act is repealed.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 17 OSTEOPATHIC MEDICINE AND SURGERY PRACTITIONERS
PART 1 GENERAL PROVISIONS

16.17.1.1 ISSUING AGENCY: Regulation and Licensing Department - NM Board of Osteopathic Medical Examiners.
[16.17.1.1 NMAC - N, 10-29-2004]

16.17.1.2 SCOPE: All licensed osteopathic physicians.
[16.17.1.2 NMAC - N, 10-29-2004]

16.17.1.3 STATUTORY AUTHORITY: These rules of practice and procedure govern the practice of osteopathic medicine in New Mexico and are promulgated pursuant to and in accordance with the Osteopathic Physician Practice Act, Sections 61-10-1 through 61-10-23 NMSA 1978
[16.17.1.3 NMAC - N, 10-29-2004]

16.17.1.4 DURATION: Permanent.
[16.17.1.4 NMAC - N, 10-29-2004]

16.17.1.5 EFFECTIVE DATE: October 29, 2004, unless a later date is cited at the end of a section.
[16.17.1.5 NMAC - N, 10-29-2004]

16.17.1.6 OBJECTIVE: To establish qualifications for licensure, change of address, and administrative fees.
[16.17.1.6 NMAC - N, 10-29-2004]

16.17.1.7 DEFINITIONS: "AOA" means the American osteopathic association.
[16.17.1.7 NMAC - N, 10-29-2004]

16.17.1.8 QUALIFICATIONS FOR LICENSURE: All applicants for licensure as a physician of osteopathic medicine:

- A. shall be a graduate of an AOA approved medical school of osteopathic medicine and surgery;
- B. shall have completed one year AOA accredited internship program;
- C. shall be of the age of majority;
- D. shall be of good moral character;
- E. shall not have been convicted of a felony;
- F. shall not have committed or been engaged in any of the activities listed in Section 61-10-15 NMSA

1978;

- G. shall submit an application and examination fee as determined by the board.

[16.17.1.8 NMAC - Rp, Rule 1, 10-29-2004]

16.17.1.9 CHANGE OF ADDRESS: All physicians and physician assistants who change either their office or home address must notify the board of the change within thirty (30) days.

[16.17.1.9 NMAC - Rp, Rule 9, 10-29-2004]

16.17.1.10 OSTEOPATHIC FEES

A. Licensure Fees:

(1)	Application for licensure	\$400.00
(2)	Interim license (temporary)	\$100.00
(3)	Reinstatement of license	\$500.00
(4)	Renewal	\$200.00
(5)	Late renewal monthly penalty	\$100.00

B. Miscellaneous fees: Miscellaneous fees listed below shall be approved annually by the board and may be obtained from the board office.

- (1) Written license verifications
- (2) List of licensees
- (3) Duplicate original license
- (4) Duplicate renewal certificate
- (5) Photocopying for records held in the board office
- (6) Statutes, rules and regulations

[16.17.1.10 NMAC - Rp, Rule 12, 10-29-2004]

HISTORY OF 16.17.1 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the state records center and archives under:

BOSE 69-1, Practice Guide For Osteopathic Physicians and Surgeons in New Mexico, filed 06-05-69;

Rule 1, Qualifications For Licensure, filed 12-07-88;

Rule 9, Change of Address, filed 12-07-88;

Rule 12, Osteopathic Fees, filed 09-22-89.

History of Repealed Material: Rule 1, Qualifications For Licensure (filed 12-07-88); Rule 9, Change of Address (filed 12-07-88); Rule 12, Osteopathic Fees (filed 09-22-89) all repealed 10-29-2004.

Other History:

Rule 1, Qualifications for Licensure (filed 12-07-1988); Rule 9, Change of Address (filed 12-07-1988); and Rule 12, Osteopathic Fees (filed 9-22-1989) all replaced by 16.17.1 NMAC, General Provisions, effective 10-29-2004.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 17 OSTEOPATHIC MEDICINE AND SURGERY PRACTITIONERS
PART 2 APPLICATION FOR LICENSURE

16.17.2.1 ISSUING AGENCY: Regulation and Licensing Department - NM Board of Osteopathic Medical Examiners.
[16.17.2.1 NMAC - N, 10-29-2004]

16.17.2.2 SCOPE: This part applies all osteopathic physicians applying for licensure.
[16.17.2.2 NMAC - N, 10-29-2004]

16.17.2.3 STATUTORY AUTHORITY: These rules of practice and procedure govern the practice of osteopathic medicine in New Mexico and are promulgated pursuant to and in accordance with the Osteopathic Physician Practice Act, Sections 61-10-1 through 61-10-23 NMSA 1978.
[16.17.2.3 NMAC - N, 10-29-2004]

16.17.2.4 DURATION: Permanent.
[16.17.2.4 NMAC - N, 10-29-2004]

16.17.2.5 EFFECTIVE DATE: October 29, 2004, unless a later date is cited at the end of a section.
[16.17.2.5 NMAC - N, 10-29-2004]

16.17.2.6 OBJECTIVE: To establish the procedures and outline the documents and information necessary to complete the application process for licensure.
[16.17.2.6 NMAC - N, 10-29-2004]

16.17.2.7 DEFINITIONS:

- A. "FLEX" means federation licensing examination.
- B. "NBOE" means national board osteopathic examination.
- C. "COMLEX" means composite osteopathic medical licensing examination.
- D. "USMLE" means United States medical licensing examination.

[16.17.2.7 NMAC - N, 10-29-2004]

16.17.2.8 APPLICATION FOR LICENSURE:

A. Application: All persons seeking licensure shall submit application on forms provided by the board. All application forms must be verified under oath and shall contain but shall not be limited to the following information and documents:

- (1) full legal name;
- (2) present mailing address;
- (3) date and place of birth;
- (4) date and location of all baccalaureate and post-baccalaureate training, professional training, medical training, degrees obtained, and field(s) of study;
- (5) certification of dean of osteopathic school with school seal affixed;
- (6) certification of one year of post-graduate training;
- (7) two letters of reference from two physicians who have known the applicant in a professional and personal capacity for at least one year;
- (8) a photograph taken within the preceding six months attached to the application;
- (9) notarized copy of medical diploma;
- (10) notarized copy of internship certificate;
- (11) clearance from other state boards where licensed stating that license has not been subject to disciplinary action;
- (12) clearance from the American osteopathic association, the federation of state medical boards of the United States;
- (13) NBOE, FLEX, COMLEX or USMLE scores sent directly to the board.

B. Interview: Any applicant for licensure with prior, current, or pending disciplinary action must appear before the board at its next regular scheduled board meeting after the applicant has met all other application requirements.
[16.17.2.8 NMAC - Rp, Rule 2, 10-29-2004]

HISTORY OF 16.17.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the state records center and archives:

BOSE 69-1, Practice Guide for Osteopathic Physicians and Surgeons in New Mexico, filed 06-05-1969.

Rule 2, Application for Licensure, filed 12-07-1988.

History of Repealed Material: Rule 2, Application for Licensure (filed 12-07-1988) repealed 10-29-2004.

Other History:

Rule 2, Application for Licensure (filed 12-07-1988) replaced by 16.17.2 NMAC, Application for Licensure, effective 10-29-2004.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 17 OSTEOPATHIC MEDICINE AND SURGERY PRACTITIONERS
PART 3 EXAMINATION, ENDORSEMENT AND TEMPORARY LICENSE REQUIREMENTS

16.17.3.1 ISSUING AGENCY: Regulation and Licensing Department - NM Board of Osteopathic Medical Examiners.
[16.17.3.1 NMAC - N, 10-29-2004]

16.17.3.2 SCOPE: This part applies to applicants for licensure.
[16.17.3.2 NMAC - N, 10-29-2004]

16.17.3.3 STATUTORY AUTHORITY: These rules of practice and procedure govern the practice of osteopathic medicine in New Mexico and are promulgated pursuant to and in accordance with the Osteopathic Physician Practice Act, Sections 61-10-1 through 61-10 -23 NMSA 1978
[16.17.3.3 NMAC - N, 10-29-2004]

16.17.3.4 DURATION: Permanent.
[16.17.3.4 NMAC - N, 10-29-2004]

16.17.3.5 EFFECTIVE DATE: October 29, 2004, unless a later date is cited at the end of a section.
[16.17.3.5 NMAC - N, 10-29-2004]

16.17.3.6 OBJECTIVE: To establish requirements to obtain a temporary license and for licensure by examination and endorsement.
[16.17.3.6 NMAC - N, 10-29-2004]

16.17.3.7 DEFINITIONS:
A. "FLEX" means federation licensing examination.
B. "NBOE" means national board osteopathic examination.
C. "COMLEX" means composite osteopathic medical licensing examination.
D. "USMLE" means United States medical licensing examination.
[16.17.3.7 NMAC - N, 10-29-2004]

16.17.3.8 EXAMINATION: In determining the fitness of an applicant for licensure by examination, the board adopts the following examinations: FLEX (federation of state medical boards of the United States) or the NBOE (national board of examiners of osteopathic physicians and surgeons) or COMLEX (composite osteopathic medical licensing examination) or the USLME (United States medical licensing examination.) Each applicant must register with the national board of osteopathic medical examiners or the federation of state licensing boards to take the exam at the most convenient testing site available. The board will not administer any of the aforementioned exams.

A. FLEX

(1) Each applicant must earn a passing score of 75% or higher on each of the two components of the exam. The board will not accept overall or average scores. The board will accept passing component scores obtained at a single administration or at separate administrations of the exam.

(2) If an applicant fails either component of the FLEX examination he must repeat only the component failed. Upon failing one or both components, the applicant may repeat the component failed at the next administration of the exam. If the applicant fails a second examination, he must wait one year before taking the examination for a third time. If the applicant fails a third time, the applicant must acquire one additional year of AOA approved postgraduate training before being examined a fourth time.

(3) Both components of the FLEX examination must be passed within seven years of taking the initial examination.

B. NBOE - Each applicant must earn a passing score of 75% or higher on each of the three components of the examination.

C. COMLEX - Each applicant must earn a minimum total passing score or higher on each level of this examination.

D. USMLE - Each applicant must earn a minimum total passing score or higher on each level of this examination.

[16.17.3.8 NMAC - Rp, Rule 3, 10-29-2004]

16.17.3.9 LICENSURE BY ENDORSEMENT: Applicants for licensure by endorsement shall meet all requirements as set forth in Section 61-10-12 NMSA 1978. Additionally, the state of the applicants primary license shall have requirements equal to or greater than the requirements of licensure in New Mexico.
[16.17.3.9 NMAC - Rp, Rule 4, 10-29-2004]

16.17.3.10 TEMPORARY LICENSE: The board will approve permanent licenses during regular meetings only. In the interim between regular meetings, the board may issue a temporary license to applicants who have complied with all application requirements. Temporary licenses shall only be valid until the next regular board meeting.
16.17.3.10 NMAC - Rp, Rule 5, 10-29-2004]

HISTORY OF 16.17.3 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the state records center and archives:

BOSE 69-1, Practice Guide for Osteopathic Physicians and Surgeons in New Mexico, filed 6-5-1969.

Rule 3, Licensure by Examination, filed 12-7-1988.

Rule 4, Licensure by Endorsement, filed 12-7-1988.

Rule 5, Temporary License, filed 12-7-1988.

History of Repealed Material: Rule 3, Licensure by Examination (filed 12-7-1988); Rule 4, Licensure by Endorsement, (filed 12-7-1988); Rule 5, Temporary License, (filed 12-7-1988) repealed 10-29-2004.

Other History:

Rule 3, Licensure by Examination (filed 12-7-1988); Rule 4, Licensure by Endorsement, (filed 12-7-1988); and Rule 5, Temporary License (filed 12-7-1988); all replaced by 16.17.3 NMAC, Examination, Endorsement and Temporary License Requirements, effective 10-29-2004.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 17 OSTEOPATHIC MEDICINE AND SURGERY PRACTITIONERS
PART 4 RENEWAL AND CONTINUING EDUCATION REQUIREMENTS

16.17.4.1 ISSUING AGENCY: Regulation and Licensing Department - NM Board of Osteopathic Medical Examiners.
[16.17.4.1 NMAC - N, 10-29-2004]

16.17.4.2 SCOPE: All Licensed Osteopathic Physicians.
[16.17.4.2 NMAC - N, 10-29-2004]

16.17.4.3 STATUTORY AUTHORITY: These rules of practice and procedure govern the practice of osteopathic medicine in New Mexico and are promulgated pursuant to and in accordance with the Osteopathic Physician Practice Act, Sections 61-10-1 through 61-10 -23 NMSA 1978.
[16.17.4.3 NMAC - N, 10-29-2004]

16.17.4.4 DURATION: Permanent.
[16.17.4.4 NMAC - N, 10-29-2004]

16.17.4.5 EFFECTIVE DATE: October 29, 2004, unless a later date is cited at the end of a section.
[16.17.4.5 NMAC - N, 10-29-2004]

16.17.4.6 OBJECTIVE: To establish renewal procedures and continuing education requirements for licensees to renew their license.
[16.17.4.6 NMAC - N, 10-29-2004]

16.17.4.7 DEFINITIONS:
A. "CME" means continuing medical education.
B. "AOA" means the American osteopathic association.
C. "AMA" means the American medical association.
D. "SPEX" means special purpose examination.
[16.17.4.7 NMAC - N, 10-29-2004]

16.17.4.8 ANNUAL RENEWAL OF LICENSE:
A. On or before July 1 of each year, all physicians must submit an application for renewal form provided by the board. Physicians who fail to renew their certificates as of July 1 will be subject to suspension of their license.
B. As a condition of annual renewal, physicians must submit proof of completion of continuing education.
C. Physicians must submit a renewal fee.
[16.17.4.8 NMAC - Rp, Rule 7, 10-29-2004]

16.17.4.9 CME HOURS REQUIRED: The New Mexico board of osteopathic medical examiners will require seventy-five (75) hours of continuing education every three years in required education, category I. These may be distributed over the three year period, or they may all be obtained in one year. The board accepts one (1) credit hour for every clock hour of participation in a CME activity.
[16.17.4.9 NMAC - Rp, Rule 11, 10-29-2004]

16.17.4.10 ACCEPTABLE AS CME:
A. The board will also accept active membership in the American osteopathic association.
B. Certification or re-certification by a specialty board during the three year cycle.
C. Passage of the SPEX with a score of seventy-five (75), during the three year cycle.
[16.17.4.10 NMAC - N, 10-29-2004]

16.17.4.11 CME ALLOWED COURSES AND PROVIDERS:
A. **AOA or AMA and NM CATEGORY 1.** Clinical courses approved for AOA or AMA category 1-A, 1- B are approved for New Mexico category 1. Clinical courses certified by the New Mexico osteopathic association and the New Mexico medical society continuing education committee as meeting the criteria for AOA/AMA category 1, but certified as New Mexico category 1 specific, are acceptable for credit.
B. **POST GRADUAT EDUCATION.** Internship, residency or fellowship: forty (40) credit hours per year during service in post graduate educational programs approved by AOA or AMA.

C. ADVANCED DEGREES. Education for an advanced degree in a medical field or medically related field: 40 credit hours are allowed for each full academic year of study.

D. SELF ASSESSMENT TESTS. Self assessment tests given by medical associations and other educational institutions approved by the board will be accepted for credit if the test is scored by an institution approved by the board. A total of not more than thirty-five (35) hours will be granted for self assessment tests completed during a three year period.

E. TEACHING. One (1) credit hour is allowed for each clock hour of teaching of medical students or physicians in an approved medical school or approved internship or residency program or in institutions or programs approved by the board.

F. PHYSICIAN PRECEPTOR. Physicians, approved by an accredited medical school to act as preceptors for students, will be granted a maximum of thirty (30) hours credit during a three year period.

G. PAPERS OR PUBLICATIONS. Ten (10) hours may be claimed for each scientific paper or publication. A paper must be presented to a recognized international, national, regional or state medical society or other organization whose membership is primarily composed of physicians. A publication must appear in a regularly recognized medical or medically related scientific journal. Scientific material used in the paper or publication may be credited only once. No more than thirty (30) hours may be claimed in a three year period.

H. CARDIO-PULMONARY RESUSCITATION. 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) and NALS (neonatal advanced life support) courses.
[16.17.4.11 NMAC - Rp, Rule 11, 10-29-2004]

16.17.4.12 VERIFICATION OF CME: Each physician renewing a license shall attest that they have obtained the required hours of CME on the renewal form. The board will select renewal applications for audit to verify completion of acceptable CME. Audit requests will be included with the renewal notice and those selected physicians will be asked to submit proof of compliance with the continuing education requirements. The board may audit CME records at any time. CME records must be maintained for one year following the renewal cycle in which they are earned.
[16.17.4.12 NMAC - N, 10-29-2004]

16.17.4.13 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. A designee of the board may grant deferrals of up to ninety (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 at the time of renewal and 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.
[16.17.4.13 NMAC - N, 10-29-2004]

HISTORY OF 16.17.4 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the state records center and archives:

BOSE 69-1, Practice Guide for Osteopathic Physicians and Surgeons in New Mexico, filed 06-05-69;

BOSE 72-1, Regulations for Continuing Medical Education of the New Mexico State Board of Osteopathic Examination and Registration, filed 06-27-72;

Rule 7, Annual Renewal of Certificate, filed 12-07-88;

Rule 11, Continuing Medical Education, filed 09-22-89.

History of Repealed Material: Rule 7, Annual Renewal of Certificate (filed 12-07-88) and Rule 11, Continuing Medical Education (filed 09-22-89) were both repealed 10-29-2004.

Other History:

Rule 7, Annual Renewal of Certificate (filed 12-07-88) and Rule 11, Continuing Medical Education (filed 09-22-89) replaced by 16.17.4NMAC, Renewal and Continuing Education Requirements, effective 10-29-2004.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 17 OSTEOPATHIC MEDICINE AND SURGERY PRACTITIONERS
PART 5 PRESCRIBING AND DISTRIBUTION OF CONTROLLED SUBSTANCES

16.17.5.1 ISSUING AGENCY: Regulation and Licensing Department - New Mexico Board of Osteopathic Medicine.
[16.17.5.1 NMAC - N, 03-16-2014; A, 01-16-2017]

16.17.5.2 SCOPE: This part applies to all licensed osteopathic physicians.
[16.17.5.2 NMAC - N, 03-16-2014]

16.17.5.3 STATUTORY AUTHORITY: These rules of practice and procedure govern the practice of osteopathic medicine in New Mexico and are promulgated pursuant to and in accordance with the Osteopathic Medicine Act, Sections 61-10-1 through 61-10 -23 NMSA 1978 and the Pain Relief Act, Subsection D of Sections 24-2-1 thru 24-2-6 NMSA 1978.
[16.17.5.3 NMAC - N, 03-16-2014; A, 01-16-2017]

16.17.5.4 DURATION: Permanent.
[16.17.5.4 NMAC - N, 03-16-2014]

16.17.5.5 EFFECTIVE DATE: March 16, 2014, unless a later date is cited at the end of a section.
[16.17.5.5 NMAC - N, 03-16-2014]

16.17.5.6 OBJECTIVE: It is the position of the board that osteopathic physicians have an obligation to treat 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.
[16.17.5.6 NMAC - N, 03-16-2014]

16.17.5.7 DEFINITIONS:

A. "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.

B. "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.

C. "Administer" means to apply a prepackaged drug directly to the body of a patient by any means.

D. "Chronic pain" means a 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 the purpose of the Pain Relief Act requirements, include pain associated with a terminal condition.

E. "Clinical pain 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.

F. "Delegate" means a person designated by a practitioner for the purpose of requesting and receiving prescription monitoring program (PMP) reports for that practitioner.

G. "Dispense" means to deliver a drug directly to a patient and includes the compounding, labeling and repackaging of a drug from a bulk or original container.

H. "Distribute" means to administer or supply to a patient under the direct care of the distributing physician or physician assistant one or more doses of drugs prepackaged by a licensed pharmacist and excludes the compounding or repackaging from a bulk or original container.

I. "Drug abuser" means a person who takes a drug or drugs for other than legitimate medical purposes.

J. "Established physician-patient relationship" means a relationship between a physician and a patient that is for the purpose of maintaining the patient's well-being. At a minimum, this relationship is established by an interactive encounter between patient and physician involving an appropriate history and physical or mental status examination sufficient to make a diagnosis and to provide, prescribe or recommend treatment, with the informed consent from the patient and availability of the physician or physician assistant or coverage for the patient for appropriate follow-up care. A medical record must be generated by the encounter.

K. "Formulary" means any dangerous drugs; including Schedule II-V controlled substances, physicians may use in the care of patients where there is an established physician-patient relationship.

L. “Licensed osteopathic physician” means an osteopathic physician licensed by the New Mexico board of osteopathic medicine in New Mexico.

M. “Pain” means acute or chronic pain or both.

N. “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.

O. “Practitioner” means a New Mexico osteopathic physician maintaining licensure pursuant to state law that allows that individual to prescribe, order, administer or dispense controlled substances to patients.

P. “Prescribe” means to issue an order individually for the person for whom prescribed, either directly from the prescriber to the pharmacist or indirectly by means of a written order signed by the prescriber bearing the name and address of the prescriber, license classification, the name and address of the patient, the name of the drug prescribed, direction for use and the date of issue.

Q. “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.

R. “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.

[16.17.5.7 NMAC - N, 03-16-2014; A, 01-16-2017]

16.17.5.8 GUIDELINES: The following regulations shall be used by the board to determine whether an osteopathic physician'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 should be recorded. Prescriptions for opioids shall include indications for use. For chronic non-cancer pain patients treated with controlled substance and 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 non-cancer 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 non-cancer pain, the patient’s state of health, and any new information about the etiology of the chronic non-cancer pain at least every six months. In addition, a practitioner shall consult, when indicated by the patient’s condition, with a clinical pain expert. Consultation should occur early in the course of long-term treatment and at reasonable intervals during continued long-term treatment for assessment of benefit and need a minimum of once every six months.

(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 abuse disorders shall include:

(1) a contractual agreement;

- (2) appropriate consultation;
- (3) urine or hair or salivary or blood drug screening shall be considered 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 as a guiding principle.

F. Any physician that prescribes opiate based pain medication, shall obtain at least six CME credits in pain management over a three year period.

G. Any physician that prescribes opiate based pain medication shall utilize the state based prescription monitoring program at the initial office visit which results in a prescription for an opiate based pain medication, and at least at yearly intervals and at critical turning points in patient care.

H. 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 Osteopathic Medicine and Surgery Practice Act or board rules.

[16.17.5.8 NMAC - N, 03-16-2014]

16.17.5.9 PHYSICIANS TREATED WITH OPIATES: Physicians 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.

[16.17.5.9 NMAC - N, 03-16-2014]

16.17.5.10 PRESCRIPTION MONITORING PROGRAM (PMP) REQUIREMENTS: The intent of the New Mexico board of osteopathic medicine in requiring participation in the PMP is to assist practitioners in balancing the safe use of controlled substances with the need to impede harmful and illegal activities involving these pharmaceuticals.

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

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

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

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

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

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

- (1) receiving opioids from multiple prescribers;
- (2) receiving opioids and benzodiazepines concurrently;
- (3) receiving opioids for more than 12 consecutive weeks;
- (4) receiving more than one controlled substance analgesic;

- (5) receiving opioids totaling more than 90 morphine milligram equivalents per day; or
- (6) exhibiting potential for abuse or misuse of opioids and other controlled substances, such as over-utilization, requests to fill early, requests for specific opioids, requests to pay cash when insurance is available, receiving opioids from multiple pharmacies.

G. Upon recognizing any of the above conditions described in paragraph F, the practitioner, using professional judgment based on prevailing standards of practice, shall take action as appropriate to prevent, mitigate, or resolve any potential problems or risks that may result in opioid misuse, abuse, or overdose. These steps may involve counseling the patient on known risks and realistic benefits of opioid therapy, prescription and training for naloxone, consultation with or referral to a pain management specialist, or offering or arranging treatment for opioid or substance use disorder. The practitioner shall document actions taken to prevent, mitigate, or resolve the potential problems or risks. [16.17.5.10 NMAC - N, 03-16-2014; A, 01-16-2017]

16.17.5.11 NON-CANCER PAIN MANAGEMENT CONTINUING EDUCATION: This section applies to all New Mexico board of osteopathic medicine licensed physicians 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. On or before July 1, 2014 all New Mexico board of osteopathic medicine licensees who hold a federal drug enforcement administration registration and licensure to prescribe opioids, shall complete no less than two continuing medical education hours in appropriate courses that include a review of 16.17.5 NMAC, management of the treatment of pain, an understanding of the pharmacology and risks of controlled substances, a basic awareness of the problems of abuse, addiction and diversion, and awareness of state and federal regulations for the prescription of controlled substances. All such courses are subject to board approval. Practitioners who have taken continuing education hours in these educational elements in the two years prior to July 1, 2014 may apply those hours toward the required two continuing education hours described in this subsection.

B. 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 osteopathic board physician licensees, who hold a federal drug enforcement administration registration and license to prescribe opioids, shall be required to complete and submit six continuing education hours. Appropriate courses shall include all of the educational elements described in Subsection A of this section. All such courses are subject to board approval. These hours may be earned at any time during the three-year period immediately preceding the triennial renewal date. The two 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.

C. All New Mexico board of osteopathic medicine licensees, whether or not the New Mexico license is their first license, who hold a federal drug enforcement administration registration and license shall complete two continuing medical education hours in pain management during the first year of licensure. These two continuing medical education hours completed prior to the first renewal may be included as part of the hours required in Subsection B above. [16.17.5.11 NMAC - N, 03-16-2014; A, 01-16-2017]

16.17.5.12 NOTIFICATION: In addition to the notice of procedures set forth in the State Rules Act Chapter 14, Article 14, NMSA 1978, the board shall separately notify the following persons of the Pain Relief Act and Part 17 of the New Mexico board of osteopathic medicine rule;

A. health care practitioners under its jurisdiction; and

B. health care practitioners being investigated by the board in relation to the practitioner's pain management services.

[16.17.5.12 NMAC - N, 03-16-2014]

HISTORY OF 16.17.5 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 17 OSTEOPATHIC MEDICINE AND SURGERY PRACTITIONERS
PART 6 REVOCATION OR REFUSAL OF LICENSURE

16.17.6.1 ISSUING AGENCY: Regulation and Licensing Department - NM Board of Osteopathic Medical Examiners.
[16.17.6.1 NMAC - N, 10-29-2004]

16.17.6.2 SCOPE: All licensed osteopathic physicians.
[16.17.6.2 NMAC - N, 10-29-2004]

16.17.6.3 STATUTORY AUTHORITY: These rules of practice and procedure govern the practice of osteopathic medicine in New Mexico and are promulgated pursuant to and in accordance with the Osteopathic Physician Practice Act, Sections 61-10-1 through 61-10-23 NMSA 1978.
[16.17.6.3 NMAC - N, 10-29-2004]

16.17.6.4 DURATION: Permanent.
[16.17.6.4 NMAC - N, 10-29-2004]

16.17.6.5 EFFECTIVE DATE: October 29, 2004, unless a later date is cited at the end of a section.
[16.17.6.5 NMAC - N, 10-29-2004]

16.17.6.6 OBJECTIVE: To establish causes for revoking, refusing, or suspending a license to practice osteopathic medicine in New Mexico.
[16.17.6.6 NMAC - N, 10-29-2004]

16.17.6.7 DEFINITIONS: [RESERVED]

16.17.6.8 REVOCATION OR REFUSAL OF LICENSE:

A. Causes for refusal or revocation of license. The board may either refuse to issue or may suspend or revoke any license for any one or more of the following causes, whether committed in the state of New Mexico or elsewhere:

- (1) conviction of a felony, as evidenced by a certified copy of the record of the court issuing conviction;
- (2) obtaining or attempting to obtain a license by fraudulent misrepresentation, or practicing in the profession by fraudulent misrepresentation;
- (3) gross malpractice which means gross and flagrantly improper treatment of a patient, or such culpable neglect of a patient as to indicate a willful act or injury to the patient; gross malpractice also means such incompetence on the part of the practitioner as to render him unfit to hold himself out to the public as a licensed osteopathic physician and surgeon; gross malpractice shall also consist of performing, aiding, or abetting the performance of any act or operation upon or on behalf of a patient expressly forbidden by state and federal penal laws, such as criminal operations, dispensing and prescribing of narcotics;
- (4) advertising, practicing, or attempting to practice under a name other than one's own;
- (5) habitual or excessive use or abuse of drugs or alcohol;
- (6) immoral, dishonorable or unprofessional conduct.

B. Dishonorable and unprofessional conduct shall include but shall not be limited to the following:

- (1) willful violation of the code of ethics of the American osteopathic association;
- (2) aiding unlicensed persons to practice medicine and surgery in the state of New Mexico;
- (3) violation of the law pertaining to dangerous drugs, narcotics, or intoxicating liquors;
- (4) the commission of any act involving moral turpitude; moral turpitude includes any act contrary to justice, honesty, modesty or good morals;
- (5) incompetency to act as an osteopathic physician and surgeon; failure to possess and or exercise the requisite degree of skill, learning, and care commonly possessed by osteopathic physicians and surgeons in the state of New Mexico or the rendering of treatment to patients in a manner contrary to accepted rules;
- (6) the performance of any act or omission which tends to degrade or place the physician and the osteopathic profession in bad public repute where the act or omission is contrary to the professional standards which an osteopathic physician and surgeon assumes;
- (7) the unlawful use of the name "doctor of medicine" or its initials or emblems, either orally or otherwise;

board;

- (8) willful failure to comply with regulations of the department of health or the regulations of this
- (9) continuing to practice while knowingly having an infectious or contagious disease;
- (10) the failure to clearly designate the school of medicine by which a physician is licensed to practice on all professional stationery, signs, prescription blanks, telephone and business directories, certificates, and papers of any kind which pertain to his practice as an osteopathic physician and surgeon.

[16.17.6.8 NMAC - Rp, Rule 8, 10-29-2004]

HISTORY OF 16.17.6 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the state records center and archives:

BOSE 69-1, Practice Guide for Osteopathic Physicians and Surgeons in New Mexico, filed 06-05-69.

Rule 8, Revocation or Refusal of License, filed 12-07-88.

History of Repealed Material: Rule 8, Revocation or Refusal of License (filed 12-07-88) repealed 10-29-2004.

Other History:

Rule 8, Revocation or Refusal of License (filed 12-07-88) replaced by 16.17.6 NMAC, Revocation or Refusal of License, effective 10-29-2004.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 17 OSTEOPATHIC MEDICINE AND SURGERY PRACTITIONERS
PART 7 REINSTATEMENT

16.17.7.1 ISSUING AGENCY: Regulation and Licensing Department - NM Board of Osteopathic Medical Examiners.
[16.17.7.1 NMAC - N, 10-29-2004]

16.17.7.2 SCOPE: All licensed osteopathic physicians.
[16.17.7.2 NMAC - N, 10-29-2004]

16.17.7.3 STATUTORY AUTHORITY: These rules of practice and procedure govern the practice of osteopathic medicine in New Mexico and are promulgated pursuant to and in accordance with the Osteopathic Physician Practice Act, Sections 61-10-1 through 61-10-23 NMSA 1978
[16.17.7.3 NMAC - N, 10-29-2004]

16.17.7.4 DURATION: Permanent
[16.17.7.4 NMAC - N, 10-29-2004]

16.17.7.5 EFFECTIVE DATE: October 29, 2004, unless a later date is cited at the end of a section.
[16.17.7.5 NMAC - N, 10-29-2004]

16.17.7.6 OBJECTIVE: To establish reinstate requirements for physicians who have allowed their license to lapse.
[16.17.7.6 NMAC - N, 10-29-2004]

16.17.7.7 DEFINITIONS: "SPEX" means special purpose examination administered by the federation of state licensing boards.
[16.17.7.7 NMAC - N, 10-29-2004]

16.17.7.8 REINSTATEMENT OF LICENSE:

A. Lapsed license: An applicant whose license has lapsed for failure to renew his license may apply for reinstatement of his license. An applicant who has allowed his license to lapse for a period greater than three years may not apply for reinstatement. Such an individual must re-apply for a license. All applications for reinstatement shall be accompanied by the following:

(1) proof of completion of 75 board approved continuing education hours obtained in the preceding three years; in the event an applicant has not completed the requisite number of continuing education hours, the board may require that the applicant successfully pass the SPEX examination or complete a course designated by the board;

(2) a chronology of medical activities during the entire period the license has been in a lapsed status. In the event an applicant has not actively engaged in the practice of medicine in New Mexico during the period of lapse, the board in its discretion may require the applicant to successfully pass the SPEX examination or complete a course designated by the board;

(3) three letters of recommendation from osteopathic physicians who have known the applicant professionally and personally for one year; all letters of recommendation must be mailed directly to the board from the recommending physician;

(4) a list of hospitals and their addresses where the applicant has worked during the five years immediately preceding application for reinstatement;

(5) a 3' x 5" photograph taken within the preceding year;

(6) payment of reinstatement fee and current renewal fee.

B. Disciplinary action:

(1) An applicant whose license has been suspended or revoked pursuant to Section 61-10-15 NMSA 1978 may request reinstatement of his license. All requests must be in writing and must be accompanied by all required information. Additionally, the applicant must appear before the board and must demonstrate that he has been sufficiently rehabilitated from the offense that gave rise to his suspension or probation that he may engage in the practice of medicine as required by the Osteopathic Physician Practice Act, Sections 61-10-1 through 61-10-22 NMSA 1978.

(2) The board may require that the applicant successfully pass the SPEX examination or complete a course designated by the board.

[16.17.7.8 NMAC - Rp, Rule 6, 10-29-2004]

HISTORY OF 16.17.7 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the state records center and archives:

BOSE 69-1, Practice Guide for Osteopathic Physicians and Surgeons in New Mexico, filed 06-05-69.

Rule 6, Reinstatement of License, filed 12-07-88.

History of Repealed Material: Rule 6, Reinstatement of License (filed 12-07-1988) repealed 10-29-2004.

Other History:

Rule 6, Reinstatement of License (filed 12-07-1988) replaced by 16.17.7 NMAC, Reinstatement, effective 10-29-2004.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 17 OSTEOPATHIC MEDICINE AND SURGERY PRACTITIONERS
PART 8 LICENSURE FOR MILITARY SERVICE MEMBERS, SPOUSES AND VETERANS

16.17.8.1 ISSUING AGENCY: Regulation and Licensing Department - NM Board of Osteopathic Medical Examiners.

[16.17.8.1 NMAC - N, 03-16-2014]

16.17.8.2 SCOPE: Part 8 of Chapter 17 sets forth application procedures to expedite licensure for military service members, their spouses and veterans.

[16.17.8.2 NMAC - N, 03-16-2014]

16.17.8.3 STATUTORY AUTHORITY: Part 8 of Chapter 17 is promulgated pursuant to and in accordance with the Osteopathic Medicine and Surgery Act, NMSA 1978, Sections 61-10-1 through 61-10-22 (specific authority to promulgate rules is 61-2-6(D)(2) and NMSA 1978, Section 61-1-(HB 180).

[16.17.8.3 NMAC - N, 03-16-2014]

16.17.8.4 DURATION: Permanent.

[16.17.8.4 NMAC - N, 03-16-2014]

16.17.8.5 EFFECTIVE DATE: March 16, 2014, unless a later date is cited at the end of a section.

[16.17.8.5 NMAC - N, 03-16-2014]

16.17.8.6 OBJECTIVE: The objective of Part 8 of Chapter 17 is to expedite licensure for military service members, their spouses and veterans pursuant to NMSA 1978, Section 61-1- (2013).

[16.17.8.6 NMAC - N, 03-16-2014]

16.17.8.7 DEFINITIONS:

A. "Military service member" means a person who is serving in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard.

B. "Recent veteran" means a person who has received an honorable discharge or separation from military service within the two years immediately preceding the date the person applied for an occupational or professional license pursuant to this section.

[16.17.8.7 NMAC - N, 03-16-2014]

16.17.8.8 APPLICATION REQUIREMENTS:

A. Applications for registration shall be completed on a form provided by the board.

B. The information shall include:

(1) completed application and fee pursuant to 16.17.1.10 NMAC and 16.17.2 NMAC;

(2) satisfactory evidence that the applicant holds a license that is current and in good standing,

issued by another jurisdiction, including a branch of armed forces of the United States, that has met the minimal licensing requirements that are substantially equivalent to the licensing requirements for New Mexico osteopathic physicians;

(3) proof of honorable discharge (DD214) or military ID card or accepted proof of military spouse

status.

[16.17.8.8 NMAC - N, 03-16-2014]

16.17.8.9 RENEWAL REQUIREMENTS:

A. A license issued pursuant to this part shall not be renewed unless the license satisfies the requirements for issuance of a license pursuant to 16.17.2.8 NMAC and 16.17.3.9 NMAC and for the renewal of a license pursuant to 16.17.4 NMAC.

B. A license issued pursuant to this part shall be valid for one year or until July 1, whichever comes first.

C. Prior to the expiration of the license, all licensed osteopaths shall apply for registration renewal and shall pay the renewal fee as set forth in 16.17.1.10 NMAC.

D. The board office mails license renewal notifications at least 45 days before the license expiration date.

Failure to receive the renewal notification shall not relieve the licensee of the responsibility to timely renew the license by the expiration date.

[16.17.8.9 NMAC - N, 03-16-2014]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 17 OSTEOPATHIC MEDICINE AND SURGERY PRACTITIONERS
PART 9 PHYSICIANS SUPERVISING PHARMACIST CLINICIANS

16.17.9.1 ISSUING AGENCY: Regulation and Licensing Department - NM Board of Osteopathic Medical Examiners.
[16.17.9.1 NMAC - N, 02-07-2016]

16.17.9.2 SCOPE: The provisions in Part 9 of Chapter 17 apply to all osteopathic physicians who supervise pharmacist clinicians.
[16.17.9.2 NMAC - N, 02-07-2016]

16.17.9.3 STATUTORY AUTHORITY: These rules of practice and procedure govern the practice of medicine in New Mexico and are promulgated pursuant to and in accordance with the Osteopathic Medicine and Surgery Act, Section 61-10-14 NMSA 1978 and the Pharmacist Prescriptive Authority Act 61-11B-1 to 61-11B-3 NMSA 1978.
[16.17.9.3 NMAC - N, 02-07-2016]

16.17.9.4 DURATION: Permanent.
[16.17.9.4 NMAC - N, 02-07-2016]

16.17.9.5 EFFECTIVE DATE: February 7, 2016, unless a later date is cited at the end of a section.
[16.17.9.5 NMAC - N, 02-07-2016]

16.17.9.6 OBJECTIVE: The objective of Part 9 of Chapter 17 is to establish and adopt rules to carry out the board's responsibilities set forth in Sections 61-11B to 61-11B-3, NMSA 1978, the "Pharmacist Authority Act."
[16.17.9.6 NMAC - N, 02-07-2016]

16.17.9.7 DEFINITIONS:

A. "Consultation" means in person, telephonically, by two-way radio, by e-mail or by other electronic means.

B. "Alternate supervising physician" means a physician who holds a current unrestricted license to practice medicine or osteopathic medicine, is a cosignatory on the notification of supervision, and agrees to act as the supervising physician in the supervising physician's absence with no change to the scope of practice or protocol of the pharmacist clinician. The alternate supervising physician must be approved by the board.

C. "Scope of practice" means duties and limitations of duties placed upon a pharmacist clinician by their supervising physician or the alternate supervising physician(s) and the board; includes the limitations implied by the field of practice of the supervising physician or the alternate supervising physician(s) and the board.
[16.17.9.7 NMAC - N, 02-07-2016]

16.17.9.8 APPROVAL OF SUPERVISING PHYSICIANS: A physician shall only be approved as a pharmacist clinician supervisor after the pharmacist clinician registers with the board by submitting an application for authority to practice under the supervision of a licensed physician. The application shall include:

A. the name, address, phone number of the applicant, and proof of current certification as a pharmacist clinician by the board of pharmacy;

B. the name, address, and phone number of the supervising physician;

C. a written protocol agreed to and signed by the pharmacist clinician and the supervising physician that shall include:

(1) a statement identifying the physician authorized to prescribe dangerous drugs and the pharmacist clinician who is a party to the guidelines or protocol;

(2) a statement of the types of prescriptive authority that the pharmacist clinician is authorized to make within his scope of practice which may include:

(a) a statement of the types of diseases, dangerous drugs or dangerous drug categories involved and the type of prescriptive authority authorized in each case; and

(b) a general statement of the procedures, decision criteria or plan the pharmacist clinician is to follow when exercising prescriptive authority;

(c) a statement of the activities the pharmacist clinician is to follow in the course of exercising prescriptive authority, including documentation of decisions made and a plan for communication to and consultation with the supervising physician concerning specific decisions made; documentation may occur on the prescriptive record, patient profile, patient medical chart or in a separate log book; and

(d) a statement that describes appropriate mechanisms for reporting to the physician the pharmacist clinician's activities in monitoring the patients; and

(e) a statement that describes provisions for immediate communication or consultation between the pharmacist clinician and the supervising physician or alternate supervising physician.

D. The pharmacist clinician may be authorized in the protocol to monitor dangerous drug therapy as follows:

(1) collecting and reviewing patient dangerous drug histories;

(2) measuring and reviewing routine patient vital signs including pulse, temperature, blood pressure and respiration; and

(3) ordering and evaluating the results of laboratory tests relating to dangerous drug therapy, including blood chemistries and cell counts, controlled substance therapy levels, blood, urine, tissue or other body fluids, culture and sensitivity tests when performed in accordance with guidelines or protocols applicable to the practice setting.

E. A pharmacist clinician may only prescribe controlled substances if she:

(1) has obtained a New Mexico controlled substances registration and a drug enforcement agency registration, and

(2) prescribes controlled substances within the parameters of written guidelines or protocols established under these regulations and Section 3.A of 62-11B NMSA 1978, the Pharmacist Prescriptive Authority Act.

F. The protocol for each pharmacist clinician shall be reviewed by the board as least every two years.

G. A pharmacist clinician shall perform only those services that are set forth in the protocol.

H. Pharmacist clinicians may prescribe only those drugs described in a board approved protocol.

I. A physician may supervise as many pharmacist clinicians as the physician can effectively supervise and communicate with in the circumstances of their particular practice setting.

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

[16.17.9.8 NMAC - N, 02-07-2016]

16.17.9.9 THE PHYSICIAN'S REQUIREMENTS OF SUPERVISION:

A. Supervising physicians must provide direction to pharmacist clinicians to specify the pharmacotherapeutic services to be provided under the circumstances in each case. This may be done by written protocol or by oral consultation. It is the responsibility of the supervising physician to assure that the appropriate directions are given and understood.

B. Supervising physicians must establish a quality assurance program for review of medical services provided by the pharmacist clinician.

C. If the supervising physician is of the opinion that circumstances warrant exceptions to the requirements set forth in Subsections A or B above, the supervising physician must specify the circumstances in writing and deliver the same to the board. The board will review, grant or deny requests for exceptions or waivers, at the board's discretion.

D. Documentation of the supervising physician reviews must be retained by the pharmacist clinician and be available for board inspection for a period of not less than five (5) years from the date of such reviews. **E.** The pharmacist clinician must have prompt access to the physician by telephone or other electronic means for advice and direction.

F. If the supervising physician plans to be or is absent from his or her practice for any reason, the supervising physician cannot designate a pharmacist clinician to take over those duties or cover the practice during such absence. The supervising physician may designate an alternate supervising physician, approved by the board, to cover the practice and perform the duties of supervising physician. The alternate supervising physician will then supervise the pharmacist clinician and will be responsible for the pharmacist clinician's actions or omissions in exercising prescriptive authority or other duties as a pharmacist clinician.

G. In order to change a supervising physician between biennial renewals of registration, without a change to the pharmacist clinician's scope of practice or protocol, a pharmacist clinician shall submit to the board a change of supervising physician form and the required fee, as specified in 16.10.9.11 NMAC. The new supervising physician may only act after the application is approved by the board.

[16.17.9.9 NMAC - N, 02-07-2016]

16.17.9.10 REPORT AND COMMITTEE: The chair of the board shall appoint two (2) members of the board, or a member and an agent of the board to an oversight committee that shall also include two members appointed by the board of pharmacy. The oversight committee will make a report that may include non-binding recommendations to both the board of pharmacy and the board of osteopathic medical examiners regarding disciplinary action. Each board can accept or reject the recommendations.

[16.17.9.10 NMAC - N, 02-07-2016]

16.17.9.11 PHYSICIANS SUPERVISING PHARMACIST CLINICIANS:

- A.** Registration application fee of \$100.
- B.** Biennial renewal fee of \$100.
- C.** Change of supervising physician fee of \$25, with no change in scope of practice or protocol.
- D.** Late fee of \$25 for failure to renew registration or provide required documentation on or before July 1.

[16.17.9.11 NMAC - N, 02-07-2016]

HISTORY of 16.17.9 NMAC: [RESERVED]