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

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


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

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

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

16.16.1.7 DEFINITIONS:
A. “Advertisement” means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, a patient to seek the services of an optometrist.

B. “Advertisement of Health Care Services Act” means NMSA 1978, Sections 57-21-1 to 57-21-3, and herein referred to as the Advertisement of Health Care Services Act.

C. [RESERVED]

D. “Board” means the New Mexico board of optometry, herein referred to as the board.

E. “Controlled substance” means any drug, substance or immediate precursor enumerated in Schedules I through V of the Controlled Substances Act.

F. “Controlled Substances Act” means NMSA 1978 Sections 30-31-1 to 30-31-41 and herein referred to as the Controlled Substances Act.

G. [RESERVED]


J. “Optometric physician” means an optometrist who has been certified by the board to administer pharmaceutical medication in the diagnosis, treatment and management of ocular diseases.


M. [RESERVED]

N. “Parental Responsibility Act” refers to Chapter 25 Laws of 1995, herein referred to as the Parental Responsibility Act or PRA.

O. “Prescription” as defined in Section 26-1-2.1 of the Drug, Device and Cosmetic Act means an order given individually for the person for whom prescribed, either directly from the prescriber to the pharmacist or indirectly by means of an electronic or written order signed by the prescriber, and bearing the name and address of...
the prescriber, his license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue.


Q. [RESERVED]


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

16.16.1.8 INSPECTION OF BOARD RECORDS:

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

B. [RESERVED]

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

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

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

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

[8-21-92; 10-14-95; 16.16.1.8 NMAC - Rn, 16 NMAC 16.1.8, 03-15-2001; A, 07-06-2012; A, 03-02-2016]

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

[N, 6-26-00; 16.16.1.9 NMAC - Rn, 16 NMAC 16.1.9, 03-15-2001]

HISTORY of 16.16.1 NMAC:

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

History of Repealed Material: [Reserved]

Other History:
16 NMAC 16.1, General Provisions, filed 9-21-95, replaced that relevant portion of NMBO Rule 20, Board Rule No. 20 - Inspection of Board Records.
16.16.2.1 ISSUING AGENCY: New Mexico Board of Optometry.
[10-14-95; 2-15-99; A, 6-26-00; 16.16.2.1 NMAC - Rn, 16 NMAC 16.2.1, 03-15-2001; A, 07-06-2012]

16.16.2.2 SCOPE: Provisions in Part 2 of Chapter 16 apply to all licensed optometrists; applicants for optometric licensure in New Mexico; anyone wishing to purchase licensee lists or mailing labels; or anyone who requests a written verification of licensure to be completed by the Board.
[10-14-95; 16.16.2.2 NMAC - Rn, 16 NMAC 16.2.2, 03-15-2001]

16.16.2.3 STATUTORY AUTHORITY: The authority for Part 2 of Chapter 16 is NMSA 1978, Sections 61-2-11, 61-2-6.D. (1) and (2) (1995 Repl. Pamp.).
[6-24-94; 10-14-95; 16.16.2.3 NMAC - Rn, 16 NMAC 16.2.3, 03-15-2001]

16.16.2.4 DURATION: Permanent.
[10-14-95; 16.16.2.4 NMAC - Rn, 16 NMAC 16.2.4, 03-15-2001]

16.16.2.5 EFFECTIVE DATE: October 14, 1995, unless a later date is cited at the end of a section.
[11-17-73...5-31-96; 16.16.2.5 NMAC - Rn, 16 NMAC 16.2.5, 03-15-2001; A, 03-15-2004]

16.16.2.6 OBJECTIVE: The objective of Part 2 of Chapter 16 is to establish the required fees for application, examination, licensure, certification, renewal, retirement, reinstatement and reactivation of a license, duplicate licenses, verifications of licensure, and so forth.
[10-14-95; 16.16.2.6 NMAC - Rn, 16 NMAC 16.2.6, 03-15-2001]

16.16.2.7 DEFINITIONS: [RESERVED]
[10-14-95; 16.16.6.7 NMAC - Rn, 16 NMAC 16.6.7, 03-15-2001]

16.16.2.8 APPLICATION PROCESSING FEE: $175.00
A. The application fee must accompany the letter of intent to sit for a scheduled exam 16.16.3.9 and 16.16.4.8 NMAC.
B. The application-processing fee is required each time the candidate is scheduled for the board exam.
[6-24-94; 10-14-95; 5-31-96; 16.16.2.8 NMAC - Rn, 16 NMAC 16.2.8, 03-15-2001; A, 07-06-2012]

16.16.2.9 EXAMINATION FEE: $400.00. The examination fee is required each time the candidate is scheduled for the Board exam.
[6-24-94; 10-14-95; 5-31-96; 16.16.2.9 NMAC - Rn, 16 NMAC 16.2.9, 03-15-2001]

16.16.2.10 LICENSE FEE FOR EXAM CANDIDATES: $200.00
[6-24-94; 10-14-95; 5-31-96; A, 6-26-00; 16.16.2.10 NMAC - Rn, 16 NMAC 16.2.10, 03-15-2001; A, 07-06-2012]

16.16.2.11 LICENSE FEE FOR ENDORSEMENT CANDIDATES: $250.00
[6-24-94; 10-14-95; 5-31-96; A, 6-26-00; 16.16.2.11 NMAC - Rn, 16 NMAC 16.2.11, 03-15-2001; A 07-06-2012]

16.16.2.12 [RESERVED]
[10-14-95; 5-31-96; 16.16.2.12 NMAC - Rn, 16 NMAC 16.2.12, 03-15-2001; Repealed, 07-06-2012]

16.16.2.13 RENEWAL FEE: $300.00

16.16.2.14 LATE PENALTY FEE: $325.00
16.16.2.15 DUPLICATE WALL LICENSE FEE: $35.00
[6-24-94; 10-14-95; 5-31-96; 16.16.2.15 NMAC - Rn, 16 NMAC 16.2.15, 03-15-2001]

16.16.2.16 DUPLICATE WALL CERTIFICATE FEE: $50.00
[6-24-94; 10-14-95; 5-31-96; 16.16.2.16 NMAC - Rn, 16 NMAC 16.2.16, 03-15-2001; A, 07-06-2012]

16.16.2.17 VERIFICATION OF LICENSURE FEE: $25.00
[6-24-94; 10-14-95; 16.16.2.17 NMAC - Rn, 16 NMAC 16.2.17, 03-15-2001; A, 07-06-2012]

16.16.2.18 INACTIVE STATUS FEE: $300.00
[16.16.2.18 NMAC - N, 03-15-2004; A, 07-06-2012]

16.16.2.19 INACTIVE RENEWAL FEE: $200.00

16.16.2.20 REACTIVATION FEE: $300.00

16.16.2.21 LICENSEE LISTINGS AND MAILING LABELS FEE: $100.00
[N, 6-26-00; 16.16.2.21 NMAC - Rn, 16 NMAC 16.2.21, 03-15-2001; 16.16.2.21 NMAC - Rn & A, 16.16.2.19 NMAC, 07-06-2012]

16.16.2.22 ALL FEES ARE NON-REFUNDABLE:
[16.16.2.22 NMAC - Rn, 16.16.2.20 NMAC, 07-06-2012]

16.16.2.23 OTHER ADMINISTRATIVE FEES:
A. Application packet: $10.00. The license application packet is also downloadable at no cost from the board’s internet website at www.rld.state.nm.us.
B. Hard copy of board’s rules and regulations and statute: $15.00. These documents are available and downloadable at no cost from the board’s internet website at www.rld.state.nm.us.
C. Request for CE review for approval for licensees as provided in 16.16.13.10 NMAC: $35.00
[16.16.2.23 NMAC - Rn, 16.16.2.21 NMAC, 07-06-2012]

HISTORY of 16.16.2 NMAC:
Pre-NMAC History:
Material in the part was derived from that previously filed with the commission of public records - state records center and archives:
NMBO Rule 23, Board Rule No. 23 - Fees, filed 5-25-94.

History of Repealed Material: [Reserved]

Other History:
16 NMAC 16.2, Fees, filed 9-21-95, replaced that relevant portion of NMBO Rule 23, Board Rule No. 23 - Fees.
TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16 OPTOMETRIC PRACTITIONERS
PART 3 REQUIREMENTS FOR LICENSURE BY EXAMINATION

16.16.3.1 ISSUING AGENCY: New Mexico Board of Optometry.
[10-14-95; 2-15-99; A, 6-26-00; 16.16.3.1 NMAC - Rn, 16 NMAC 16.3.1, 03-15-2001; A, 07-06-2012]

16.16.3.2 SCOPE: The provisions in Part 3 of Chapter 16 apply to any applicant for optometric licensure in New Mexico who does not meet the requirements for licensure by endorsement.
[10-14-95; 16.16.3.2 NMAC - Rn, 16 NMAC 16.3.2, 03-15-2001]

16.16.3.3 STATUTORY AUTHORITY: Authority for Part 3 of Chapter 16 is the Optometry Act NMSA 1978, Section 61-2-4.1; Section 61-2-6.B and D. (2), (6) and (7); Section 61-2-8; and Section 61-2-9 (1995 Repl. Pamp.).
[11-17-73; 3-31-91; 8-21-92; 6-24-94; 10-14-95; 16.16.3.3 NMAC - Rn, 16 NMAC 16.3.3, 03-15-2001]

16.16.3.4 DURATION: Permanent.
[10-14-95; 16.16.3.4 NMAC - Rn, 16 NMAC 16.3.4, 03-15-2001]

16.16.3.5 EFFECTIVE DATE: October 14, 1995, unless a later date is cited at the end of a section.
[11-17-73...10-14-95; 5-31-96; 2-15-99; 16.16.3.5 NMAC - Rn, 16 NMAC 16.3.5, 03-15-2001; A, 03-15-2004]

16.16.3.6 OBJECTIVE: The objective of Part 3 of Chapter 16 is to establish clearly the licensure application procedures and requirements for candidates who are seeking licensure by examination to qualify to sit for the Board's licensing examination.
[10-14-95; 16.16.3.6 NMAC - Rn, 16 NMAC 16.3.6, 03-15-2001]

16.16.3.7 DEFINITIONS:
A. “NBEO” means the national board of examiners in optometry.
B. “NBEO Part I” refers to the NBEO basic science exam.
C. “NBEO Part II” refers to the NBEO clinical science exam.
D. “NBEO Part III” refers to the NBEO patient care exam which consists of PMP’s (patient management); VRICS (visual recognition and interpretation of clinical signs); and clinical skills.
E. “The TMOD” means the NBEO treatment and management of ocular disease exam.
[10-14-95; 16.16.3.7 NMAC - Rn, 16 NMAC 16.3.7, 03-15-2001]

16.16.3.8 EXAMINATION REQUIREMENTS:
A. As of January 15, 1995, all candidates for licensure are required to take the Board's licensing examination.
B. As of January 15, 1995, all candidates, except those who have met the qualification requirements set forth in Subsections A and B of 16.16.4.8 NMAC and have been approved as candidates for licensure by endorsement, shall be required to pass Part I, Part II, Part III, and the TMOD of the NBEO national standards examination as a prerequisite to sitting for the Board’s licensing examination.
[10-14-95, 5-31-96, 2-15-99; 16.16.3.8 NMAC - Rn, 16 NMAC 16.3.8, 03-15-2001]

16.16.3.9 APPLICATION REQUIREMENTS: In accordance with Section 61-2-8 NMSA 1978, and those qualifications set forth therein, candidates for examination must submit to the board office, at least 65 days prior to the announced examination date, a letter of intent applying for the next regularly scheduled board examination accompanied by the required application processing fee. In addition to a completed, board-approved application form, the following documents must be received by the board office no later than 40 days prior to the requested examination.
A. A copy of the applicant’s birth certificate certified to be a true and correct copy of the original.
B. Letters of reference from two currently licensed optometrists actively engaged in the practice of optometry, and not related to the applicant, written on their letterhead stationery.
C. Official pre-optometry transcript(s) sent directly to the board office by each college or university attended by the applicant.
D. A complete official optometry transcript showing the applicant’s graduation sent directly to the board by a college of optometry as approved by the American optometric association’s council of optometric education.

(1) An applicant expecting to graduate in the spring or summer prior to the board’s examination who does not expect completed transcripts to be available before the documentation deadline, must make arrangements for the school to send a letter directly to the board regarding the applicant’s expected graduation.

(2) The letter must be postmarked before the forty-day documentation deadline.

(3) The completed, official transcript must be received by the board before the scheduled examination date or the application will be considered incomplete, and the applicant will be denied entrance into the examination.

E. A statement and copy of other state license(s) held by the applicant.

F. A recent, passport-type photograph of the applicant. The applicant must sign the back of the photograph in the presence of the notary who is also witnessing the applicant's signature on the board-approved exam application form.

G. An affidavit from the applicant that the applicant has not engaged in any optometry practice of an illegal or unethical nature as defined in the New Mexico Optometry Act, Sections 61-2-1 to 61-21-18 NMSA 1978 (1995 Repl. Pamp.).

H. Copy of current certification attesting to completion of a CPR course offered by the American red cross, the American heart association, or the American safety and health institute (ASHI). The course cannot be self-study.

I. A verification from an accredited optometry school of successful completion of 100 or more post-graduate clock hours of ocular therapeutics pharmacology, as provided in Subsection A of 16.16.7.10 NMAC, and a minimum of 20 post-graduate clock hours in clinical pharmacology as provided in Subsection B of 16.16.7.11 NMAC.

J. Verification directly from the national board of examiners in optometry (NBEO) that the applicant has successfully passed part I, part II, part III, and the TMOD of the NBEO as provided in Subsection B of 16.16.3.8 NMAC.

(1) If NBEO examination results will not be released by the NBEO prior to the documentation deadline, the applicant must submit to the board a copy of the NBEO letter scheduling the applicant for the NBEO exam(s).

(2) Upon receipt of verification of successful completion of the required NBEO exam(s), and upon having met all other requirements stipulated in this regulation, the approved candidate will be scheduled for the next regularly scheduled board examination.

K. A list of the names of any New Mexico licensed optometrist(s) with whom the applicant is acquainted; with whom the applicant has a professional or personal affiliation; or that the applicant would feel uncomfortable being examined by, in the event that one of those optometrists is a board member or a clinical examiner for the board. Failure to provide this information prior to the examination deadline may disqualify the candidate from the exam.

L. Each approved exam candidate will be required to bring his/her copy of the board’s exam policy and procedures document to the clinical exam and to sign it in the presence of the board’s representative in attestation that the candidate has read the document; and a copy of the document will become a part of the candidate’s examination records.


16.16.3.10 APPLICATION APPROVAL: Upon board review and approval of the above listed documentation, each approved candidate will be scheduled by letter to sit for the board’s examination.

A. Candidates will not be allowed entrance into the examination without this schedule notification letter.

B. At least one form of picture identification will be required for entrance into the examination.

C. Each candidate will be assigned an identification number that will be the sole means of candidate identification throughout the administration and scoring of the examination.

[10-14-95; A, 2-15-99; 16 NMAC 16.3.10 - Rn, 16 NMAC 16.3.10, 03-15-2001]

16.16.3.11 INELIGIBILITY FOR LICENSURE: Any applicant for licensure who desires to take the board examination and who has had a license either suspended or revoked in any jurisdiction shall be ineligible to take the
examination until that license is reinstated.
[11-17-73; 10-14-95; 16 NMAC 16.3.11 - Rn, 16 NMAC 16.3.11, 03-15-2001]

16.16.3.12 INCOMPLETE APPLICATIONS PURGED: Incomplete applications for licensure will be kept on file for two years from the date the first item of documentation was received and board staff created a file.

HISTORY of 16.16.3 NMAC:
Pre-NMAC History:
Material in the part was derived from that previously filed with the commission of public records - state records center and archives:
OEB 73-1, Rule No. 1 of the Administrative Rules and Regulations of the State Board of Examiners in Optometry, filed 10-18-73.
NMBO Rule 1, Board Rule No. 1 - Requirements for Application, filed 3-1-91.
NMBO Rule 1, Board Rule No. 1 - Requirements for Application, filed 7-22-92.
NMBO Rule 1, Board Rule No. 1 - Requirements for Application, filed 5-25-94.

History of Repealed Material: [RESERVED]

Other History:
16 NMAC 16.3, Requirements For Licensure By Examination, filed 9-21-95 replaced that relevant portion of NMBO Rule 1, Board Rule No. 1 - Requirements for Application.
16 NMAC 16.3, Requirements For Licensure By Examination, filed 9-21-95, renumbered and reformatted to 16.16.3 NMAC, Requirements For Licensure By Examination, effective 03-15-2001.
16.16.4.1 ISSUING AGENCY: New Mexico Board of Optometry.
[10-14-95; 2-15-99; A, 6-26-00; 16.16.4.1 NMAC - Rn, 16 NMAC 16.4.1, 03-15-2001; A, 07-06-2012]

16.16.4.2 SCOPE: The provisions in Part 4 of Chapter 16 apply to all applicants for licensure by endorsement.
[10-14-95; 16.16.4.2 NMAC - Rn, 16 NMAC 16.4.2, 03-15-2001]

16.16.4.3 STATUTORY AUTHORITY: The authority for Part 4 of Chapter 16 is Section 61-2-8; Section 61-2-9; Section 61-2-11. (C); and Section 61-2-6.D. (1) and (2) NMSA 1978, (1995 Repl. Pamp.).
[11-17-73; 3-31-91; 8-21-92; 6-24-94; 10-14-95; 16.16.4.3 NMAC - Rn, 16 NMAC 16.4.3, 03-15-2001]

16.16.4.4 DURATION: Permanent.
[10-14-95; 16.16.4.4 NMAC - Rn, 16 NMAC 16.4.4, 03-15-2001]

16.16.4.5 EFFECTIVE DATE: October 14, 1995, unless a later date is cited at the end of a section.
[11-17-73...5-31-96; 16.16.4.5 NMAC - Rn, 16 NMAC 16.4.5, 03-15-2001; A, 03-15-2004]

16.16.4.6 OBJECTIVE: The objective of Part 4 of Chapter 16 is to establish clearly the licensure application procedures and requirements for endorsement candidates to qualify to sit for the board's licensing examination.
[10-14-95; 16.16.4.6 NMAC - Rn, 16 NMAC 16.4.6, 03-15-2001]

16.16.4.7 DEFINITIONS:
A. “NBEO” means the national board of examiners in optometry.
B. “NBEO Part I” refers to the NBEO basic science exam.
C. “NBEO Part II” refers to the NBEO clinical science exam.
D. “NBEO Part III” refers to the NBEO patient care exam which consists of pmp's (patient management); VRICS (visual recognition and interpretation of clinical signs); and clinical skills.
E. “The TMOD” refers to the NBEO treatment and management of ocular disease exam.
[10-14-95; 16.16.4.7 NMAC - Rn, 16 NMAC 16.4.7, 03-15-2001]

16.16.4.8 EXAMINATION REQUIREMENTS:
A. Prior to January 15, 1995, the board administered its own ten-part written examination in the following areas: practical optometry, theoretical optometry, pharmacology, contact lenses, geometrical optics, perimetry (visual fields), ocular pathology, ocular anatomy, physiological optics, and orthoptics.

(1) Prior to January 15, 1995, qualified endorsement candidates were waived the requirement of sitting for these 10 sections of the board's written examination if the state of original licensure could verify that the applicant was examined in these areas in a state exam, and that the applicant passed each section with a seventy-five percent or higher.

(2) Prior to January 15, 1995, qualified endorsement candidates were required to sit only for the board's practical examination and were required to pass it with seventy-five percent or higher.

B. As of January 15, 1995, in order to qualify for licensure by endorsement, an applicant licensed in other states prior to January 15, 1995, must provide verification from the other state licensing board that the applicant successfully passed a written state examination in the areas examined in New Mexico prior to January 15, 1995, and that the applicant passed the exams with a seventy-five percent or higher.

C. Applicants licensed as optometrists in other states prior to January 15, 1995, who have not successfully passed a written state examination with a seventy-five percent or higher in the areas examined in New Mexico prior to January 15, 1995, must present proof of having successfully passed Part I, Part II, Part III, and the TMOD of the NBEO exam as a prerequisite to sitting for the board's examination.

D. As of January 15, 1995, the board's written exam no longer consists of the ten areas listed in Subsection A of 16.16.4.8 NMAC. The board now accepts Part I, Part II, Part III, and the TMOD of the NBEO exam instead. Applicants licensed in other states after January 15, 1995 must provide verification of having
successfully passed Part 1, Part II, Part III, and the TMOD of the NBEO in order to sit for the board's exam.

E. As of January 15, 1995, endorsement candidates are required to take all of the board's licensing examination and to pass each section with a seventy-five percent or better in order to qualify for licensure.

16.16.4.9 APPLICATION REQUIREMENTS: At least 65 days prior to the next scheduled examination every applicant for licensure by endorsement must submit to the board office the required application-processing fee with a letter of intent stating the date of examination for which he/she wishes to be scheduled. The following items must be received by the board office at least 40 days prior to the regularly scheduled board examination for which the applicant wishes to be scheduled.

A. A copy of the applicant's birth certificate certified to be a true and correct copy of the original.

B. An affidavit that the applicant has not at any time preceding application been engaged in any optometric practice of an illegal or unethical nature as defined in the Optometry Act.

C. Copy(ies) of any other state license(s) held by the applicant.

D. Official pre-optometry transcript(s) sent directly to the board office by each college or university attended by the applicant.

E. A complete, official optometry transcript showing the applicant's graduation sent directly to the board office by a college of optometry as approved by the American optometric association's council on optometric education.

F. Letters of reference from two currently licensed optometrists in the endorsing state of licensure.

G. Verification of successful completion of 100 or more post-graduate clock hours of oculo therapeutics pharmacology from an accredited institution.

H. A complete professional resume or curriculum vitae' to date.

I. Copy of current certification attesting to completion of a CPR course offered by the American red cross, the American heart association, or the American safety and health institute (ASHI). The course cannot be self-study.

J. A completed, signed, and notarized board-approved exam application form.

K. The required application and examination fees (16.16.2.8 NMAC and 16.16.2.9 NMAC).

L. A recent, passport-type photograph of the applicant which the applicant has signed on the back in the presence of the notary public who is also witnessing the applicant's signature on the application form.

M. Verifications of licensure status sent directly to the board from all state licensing boards where the applicant is or has ever been licensed. Endorsement candidates will require the following information:

(1) verification that the applicant has been actively engaged in the practice of optometry in the state of licensure or in federal service for seven consecutive years immediately prior to the year in which application is made to the board office;

(2) verification that the applicant has completed 14 days, or 112 hours of continuing education during the immediate seven years prior to the application, providing that at least 22 of those hours were completed within the immediate prior year; and

(3) verification of examination requirements which the applicant met to be licensed to practice in that state (see 16.16.4.8 NMAC)

N. Verification must be provided for pre-1994-1995 academic year optometry school graduates of successful completion of a minimum 20 hour course in clinical pharmacology as set forth in Subsection B of 16.16.7.11 NMAC.

O. A list of the names of any New Mexico licensed optometrist(s) with whom the applicant is acquainted; with whom the applicant has a professional or personal affiliation; or that the applicant would feel uncomfortable being examined by, in the event that one of those optometrists is a board member or a clinical examiner for the board. Failure to provide this information prior to the examination may disqualify the candidate from the exam.

P. Each approved exam candidate will be required to bring his/her copy of the board’s exam policy and procedures document to the clinical exam and to sign it in the presence of the board’s representative in attestation that the candidate has read the document; and a copy of the document will become a part of the candidate’s examination records.

16.16.4.10 APPLICATION APPROVAL: When the candidate has met all the requirements stipulated in
this regulation, and upon board review and approval of the above documentation, each approved candidate will be scheduled by letter to sit for the board's examination. Candidates will not be allowed entrance into the examination without this schedule notification letter.

A. Candidate Identification. Each candidate will be assigned an identification number that will be the sole means of candidate identification throughout the administration and scoring of the examination.

B. At least one form of picture identification will be required for entrance into the examination.

[11-17-73; 12-6-87; 3-31-91; 8-21-92; 6-24-94; 10-14-95; 2-15-99; 16.16.4.10 NMAC - Rn, 16 NMAC 16.4.10, 03-15-2001]

16.16.4.11 INELIGIBILITY FOR LICENSURE: Any applicant for licensure who desires to take the board examination and who has had a license either suspended or revoked in any jurisdiction shall be ineligible to take the examination until that license is reinstated by the other licensing jurisdiction.

[11-17-73; 10-14-95; 5-31-96; 2-15-99; 16.16.4.11 NMAC - Rn, 16 NMAC 16.4.11, 03-15-2001]

16.16.4.12 INCOMPLETE APPLICATIONS PURGED: Incomplete applications for licensure will be kept on file for two years from the date the first item of documentation was received and board staff created a file.

[N, 6-26-00; 16.16.4.12 NMAC - Rn, 16 NMAC 16.4.12, 03-15-2001; A, 03-15-2004]

HISTORY of 16.16.4 NMAC:

Pre-NMAC History:
Material in the part was derived from that previously filed with the commission of public records - state records center and archives:
OEB 73-1, Rule No. 1 of the Administrative Rules and Regulations of the State Board of Examiners in Optometry, filed 10-18-73.
NMBO Rule 8, Board Rule No. 8 - Licensure By Endorsement, filed 3-1-91.
NMBO Rule 8, Board Rule No. 8 - Licensure By Endorsement, filed 7-22-92.
NMBO Rule 8, Board Rule No. 8 - Licensure By Endorsement, filed 5-25-94.

History of Repealed Material: [Reserved]

Other History:
16 NMAC 16.4, Requirements For Licensure By Endorsement, filed 9-21-95, replaced NMBO Rule 8, Board Rule No. 8 - Licensure By Endorsement. Filed 5-25-94.
16 NMAC 16.4, Requirements For Licensure By Endorsement, filed 9-21-95, was renumbered and reformatted to 16.16.4 NMAC, Requirements For Licensure By Endorsement, effective 03-15-2001.
TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16 OPTOMETRIC PRACTITIONERS
PART 5 EXAMINATION FOR OPTOMETRIC LICENSURE

16.16.5.1 ISSUING AGENCY: New Mexico Board of Optometry.
[10-14-95; 2-15-99; A, 6-26-00; 16.16.5.1 NMAC - Rn, 16 NMAC 16.5.1, 03-15-2001; A, 07-06-2012]

16.16.5.2 SCOPE: The provisions in Part 5 of Chapter 16 apply to all applicants for optometric licensure in New Mexico.
[10-14-95; 16.16.5.2 NMAC - Rn, 16 NMAC 16.5.2, 03-15-2001]

16.16.5.3 STATUTORY AUTHORITY: The authority for Part 5 of Chapter 16 is NMSA 1978, Section 61-2-4.1; Section 61-2-6.B and D. (6) (7); Section 61-2-9; and 61-2-6.D. (1) and (2) (1995 Repl. Pamp.).
[11-17-73; 3-31-91; 8-21-92; 6-24-94; 10-14-95; 16.16.5.3 NMAC - Rn, 16 NMAC 16.5.3, 03-15-2001]

16.16.5.4 DURATION: Permanent.
[10-14-95; 16.16.5.4 NMAC - Rn, 16 NMAC 16.5.4, 03-15-2001]

16.16.5.5 EFFECTIVE DATE: October 14, 1995, unless a later date is cited at the end of a section.
[11-17-73...5-31-96; 16.16.5.5 NMAC - Rn, 16 NMAC 16.5.5, 03-15-2001; A, 03-15-2004]

16.16.5.6 OBJECTIVE: The objective of Part 5 of Chapter 16 is to establish the requirements, policies, and procedures for examination for licensure to practice optometry in New Mexico.
[10-14-95; 16.16.5.6 NMAC - Rn, 16 NMAC 16.5.6, 03-15-2001]

16.16.5.7 DEFINITIONS:
A. “NBEO” means the national board of examiners in optometry.
B. “NBEO Part I” refers to the NBEO basic science exam.
C. “NBEO Part II” refers to the NBEO clinical science exam.
D. “NBEO Part III” refers to the NBEO patient care exam which consists of PMP’s (patient management); VRICS (visual recognition and interpretation of clinical signs); and clinical skills.
E. “The TMOD” means the NBEO treatment and management of ocular disease exam.
[10-14-95; 16.16.5.7 NMAC - Rn, 16 NMAC 16.5.7, 03-15-2001]

16.16.5.8 NATIONAL STANDARDS EXAMINATION:
A. As of January 15, 1995, all candidates, except those who have met the qualification requirements set forth in Subsections A and B of 16.16.4.8 NMAC and have been approved by the board as candidates for licensure by endorsement, shall be required to pass Part I, Part II, Part III, and the TMOD of the NBEO national standards examination as a prerequisite to sitting for the board's licensing examination.
B. [RESERVED]
C. Official notice of examination scores for all required parts of the NBEO examination must be received directly from the NBEO.
[10-14-95, 5-31-96; 16.16.5.8 NMAC - Rn, 16 NMAC 16.5.8, 03-15-2001; A, 03-15-2004]

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

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

E. Candidates failing to pass the board's examination may re-take a regularly scheduled examination upon approved re-application.

(1) Failed candidates must repeat all portions of the board's examination.

(2) The applicant must complete a new exam application form and submit an updated resume, provide updated license verifications directly from other licensing jurisdictions, and pay the required application processing and examination fees (16.16.2.8 NMAC and 16.16.2.9 NMAC).

F. Any candidate detected cheating in any manner during the course of any examination shall automatically fail the entire examination. Cheating on an examination shall be deemed unprofessional conduct, and shall demonstrate that the applicant is not of good moral character. Individuals detected cheating shall be afforded notice and the opportunity for a hearing under Section 61-1-4 NMSA 1978 of the Uniform Licensing Act.

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

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

History of Repealed Material: [Reserved]

Other History:
16 NMAC 16.5, Examination For Optometric Licensure, filed 9-21-95 replaced that relevant portion of OEB 73-1, Administrative Rules and Regulations of the State Board of Examiners in Optometry.
16 NMAC 16.5, Examination For Optometric Licensure, filed 9-21-95, renumbered and reformatted to 16.16.5 NMAC, Examination For Optometric Licensure, effective 03-15-2001.
TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16 OPTOMETRIC PRACTITIONERS
PART 6 LICENSE ISSUANCE TO PRACTICE OPTOMETRY

16.16.6.1 ISSUING AGENCY: New Mexico Board of Optometry.
[10-14-95; 16.16.6.1 NMAC - Rn, 16 NMAC 16.6.1, 03-15-2001; A, 07-06-2012]

16.16.6.2 SCOPE: Part 6 of Chapter 16 applies to all applicants qualified for optometric licensure in New Mexico.
[10-14-95; 16.16.6.2 NMAC - Rn, 16 NMAC 16.6.2, 03-15-2001]


16.16.6.4 DURATION: Permanent.
[10-14-95; 16.16.6.4 NMAC - Rn, 16 NMAC 16.6.4, 03-15-2001]

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

16.16.6.6 OBJECTIVE: The objective of Part 6 of Chapter 16 is to establish the rules and procedures for licensure of candidates who have met all the qualifications for licensure to practice optometry in New Mexico.
[10-14-95; 16.16.6.6 NMAC - Rn, 16 NMAC 16.6.6, 03-15-2001]

16.16.6.7 DEFINITIONS: [RESERVED]
[10-14-95; 16.16.6.7 NMAC - Rn, 16 NMAC 16.6.7, 03-15-2001]

16.16.6.8 ISSUANCE OF INITIAL LICENSE: After the applicant has met all application, examination, and licensure requirements, and has paid the required license and certificate fees, the applicant will be issued a license to practice optometry in New Mexico.
[10-14-95; 16.16.6.8 NMAC - Rn, 16 NMAC 16.6.8, 03-15-2001]

16.16.6.9 DISPLAY OF LICENSE: The licensee must display the license to practice optometry in a conspicuous place in his principal office or place of business.
[10-14-95; 16.16.6.9 NMAC - Rn, 16 NMAC 16.6.9, 03-15-2001]

16.16.6.10 ADDRESS AND EMPLOYMENT PRACTICE CHANGES: It is the licensee’s responsibility to provide immediate written notification to the Board of any changes in addresses, phone numbers, and practice location(s).

HISTORY of 16.16.6 NMAC:
Pre-NMAC History: None

History of Repealed Material: [Reserved]

Other History:
16 NMAC 16.6, License Issuance To Practice Optometry, filed 9-21-95, renumbered and reformatted to 16.16.6 NMAC, License Issuance To Practice Optometry, effective 03-15-2001.
TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16 OPTOMETRIC PRACTITIONERS
PART 7 PHARMACEUTICAL CERTIFICATION

16.16.7.1 ISSUING AGENCY: New Mexico Board of Optometry.
[10-14-95; A, 6-26-00; 16.16.7.1 NMAC- Rn, 16 NMAC 16.7.1, 03-15-2001; A, 07-06-2012]

16.16.7.2 SCOPE: Part 7 of Chapter 16 applies to all currently licensed New Mexico optometrists and to all applicants for licensure by the Board.
[10-14-95; 16.16.7.2 NMAC - Rn, 16 NMAC 16.7.2, 03-15-2001]

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

16.16.7.4 DURATION: Permanent.
[10-14-95; 16.16.7.4 NMAC - Rn, 16 NMAC 16.7.4, 03-15-2001]

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

16.16.7.6 OBJECTIVE: The objective of Part 7 of Chapter 16 is to set forth the requirements and procedures for certification in the use of diagnostic, therapeutic, and oral pharmaceuticals for use by qualified licensees in the diagnosis, treatment, and management of ocular diseases.
[10-14-95; 16.16.7.6 NMAC - Rn, 16 NMAC 16.7.6, 03-15-2001]

16.16.7.7 DEFINITIONS: “Certificate” means a document issued by the board certifying that the applicant has met the requirements for which the certificate is issued.
[10-14-95; 16.16.7.7 NMAC - Rn, 16 NMAC 16.7.7, 03-15-2001]

16.16.7.8 CERTIFICATE DISPLAY: The licensee must display the pharmaceutical certificate(s) for which he has been qualified and certified by the board in a conspicuous place at his/her principal office or place of business.
[10-14-95; 16.16.7.8 NMAC - Rn, 16 NMAC 16.7.8, 03-15-2001]

16.16.7.9 OPTOMETRISTS AS PRESCRIBING PRACTITIONERS: The New Mexico Drug, Device and Cosmetic Act defines optometrists as prescribing practitioners. Subject to the provisions of the Optometry Act, New Mexico licensed optometrists may prescribe or administer all pharmaceutical agents for the diagnosis and treatment of diseases of the eye or adnexa including controlled substances classified as Schedule II-V, provided that an optometrist:
A. may prescribe hydrocodone and hydrocodone combination medications;
B. may administer epinephrine auto-injections to counter anaphylaxis;
C. shall not prescribe any other controlled substances classified in Schedule I or II pursuant to the Controlled Substances Act, Chapter 30, Article 31 NMSA 1978.
[1-15-78; 3-31-91; 10-14-95; 16.16.7.9 NMAC - Rn, 16 NMAC 16.7.9, 03-15-2001; Repealed, 2-12-2016; 16.16.7.9 NMAC - N, 2-12-2016]

16.16.7.10 [RESERVED]
[3-8-86; 10-14-95; 16.16.7.10 NMAC - Rn, 16 NMAC 16.7.10, 03-15-2001; A, 03-22-2008; Repealed 03-02-2016]

16.16.7.11 [RESERVED]
[10-14-95; A, 6-26-00; 16.16.7.11 NMAC - Rn, 16 NMAC 16.7.11, 03-15-2001; A, 03-22-2008; Repealed 03-02-2016]
16.16.7.12 **DEA REGISTRATION REQUIRED:** Before a New Mexico optometric physician may administer, dispense, or prescribe any of the controlled substances which are allowed by the Optometry Act (Section 61-2-10.2) and for which a DEA registration is required, he/she must be registered by the New Mexico board of pharmacy and by the United States drug enforcement administration as provided in 16.16.8 NMAC.
[10-14-95; 16.16.7.12 NMAC - Rn, 16 NMAC 16.7.12, 03-15-2001; A, 07-06-2012]

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

16.16.7.14 **PRESCRIPTION FOR PHARMACEUTICAL AGENTS:** A prescription written for a pharmaceutical agent shall include an order given individually for the person for whom prescribed, either directly from the prescriber to the pharmacist or indirectly by means of a written or electronic order signed by the prescriber, that bears the following items:
   A. the name and address of the prescriber;
   B. the prescriber’s professional designation;
   C. the name and address of the patient;
   D. the name and quantity of the agent being prescribed;
   E. directions for the use of the agent;
   F. the prescription issue date; and
   G. the number of refills allowed.
[16.16.7.14 NMAC - N, 03-17-2004; A, 03-02-2016]

16.16.7.15 **OPTOMETRIC PHYSICIAN CERTIFICATION REQUIREMENT:** All New Mexico licensed optometrists shall have pharmaceutical certification as determined by the board prior to licensure and may use the title “optometric physician”.
[16.16.7.15 NMAC - N, 03-22-2008; A, 03-02-2016]

**HISTORY of 16.16.7 NMAC:**
**Pre-NMAC History:**
Material in the part was derived from that previously filed with the commission of public records - state records center and archives:
OEB 73-1, Rule No. 1 of Administrative Rules and Regulations of the State Board of Examiners in Optometry, filed 10-18-73.
NMBO Rule 12, - Board Rule No. 12 - Requirements for Pharmacology Certificate, filed 3-1-91.
OPT Rule No. 17 - Education Requirements, Therapeutic Pharmaceutical Agents, filed 2-6-86.

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

**Other History:**
16 NMAC 16.7, Pharmaceutical Certification, filed 9-21-95, replaced that relevant portion of NMBO Rule 12 and OPT Rule No. 17.
16.16.8 ISSUING AGENCY: New Mexico Board of Optometry.

16.16.8.2 SCOPE: Part 8 of Chapter 16 applies to all New Mexico.
[10-14-95; 16.16.8.2 NMAC - Rn, 16 NMAC 16.8.2, 03-15-2001; A, 03-02-2016]


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

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

16.16.8.6 OBJECTIVE: The objective of Part 8 of Chapter 16 is to inform optometrists of the procedures to complete for certification before the optometrist can administer, dispense, and prescribe dangerous controlled substances in the treatment and management of ocular disease and conditions as provided in Section 61-2-10.2 NMSA 1978, (1995 Repl. Pamp.).
[10-14-95; 1616.8.6 NMAC - Rn, 16 NMAC 16.8.6, 03-15-2001; A, 03-02-2016]

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

16.16.8.8 PRE-DEA REGISTRATION REQUIREMENTS:
A. All New Mexico optometric physicians must first register with the New Mexico board of pharmacy and the United States drug enforcement administration (DEA).
B. Upon receipt of official recognition and authorization from the DEA, the board will send the board of pharmacy an official list, as required by the board of pharmacy, of all board licensees who have met the required qualifications and have received the proper board certification as provided by Section 61-2-10.2 of the Optometry Act.
[10-14-95; 16.16.8.8 NMAC - Rn, 16 NMAC 16.8.8, 03-15-2001; A, 03-02-2016]

16.16.8.9 DEA REGISTRATION REQUIREMENTS FOR CERTIFIED OPTOMETRISTS:
A. Upon completion of the board of pharmacy's requirements, and upon receipt of a New Mexico registration for controlled substances from the board of pharmacy, the optometrist shall apply for a DEA registration number from the DEA.
B. Upon receipt of a DEA registration number, the optometrist may administer, dispense, or prescribe dangerous controlled substances as provided in 16.16.7 NMAC for the treatment and management of ocular disease.
[10-14-95; 10-15-97; 16.16.8.9 NMAC - Rn, 16 NMAC 16.8.9, 03-15-2001; A, 07-06-2012; A, 03-02-2016]
16 NMAC 16.8, DEA Registration Requirements, filed 9-21-95, renumbered and reformatted to 16.16.8 NMAC, DEA Registration Requirements, effective 03-15-2001.
16.16.9.1 ISSUING AGENCY: New Mexico Board of Optometry.


16.16.9.2 SCOPE: Part 9 of Chapter 16 applies to all New Mexico optometry licensees who are not practicing in New Mexico, but are actively practicing in another state and would like to place their New Mexico licenses on inactive status rather than allow those licenses to expire, and possibly lapse.


[16.16.9.3 NMAC - N, 03-15-2004]

16.16.9.4 DURATION: Permanent.

[16.16.9.4 NMAC - N, 03-15-2004]

16.16.9.5 EFFECTIVE DATE: March 15, 2004, unless a later date is cited at the end of a section.

[16.16.9.5 NMAC - N, 03-15-2004]

16.16.9.6 OBJECTIVE: The objective of Part 9 of Chapter 16 is to set forth the requirements and procedures for placing a New Mexico license on inactive status. Through the inactive status process, licensees who live and practice outside of New Mexico can keep their New Mexico licenses valid instead of allowing them to expire and perhaps subsequently become null and void and lapse. Furthermore, the board can still ensure that these licensees are continuing the educational process and keeping up with advancements in the profession in the event they ever take up residence in New Mexico and/or choose to practice optometry in New Mexico.

[16.16.9.6 NMAC - N, 03-15-2004]

16.16.9.7 DEFINITIONS:

A. “Valid license” means a license that is subject to regulation by, and statutory authority of, the board.

B. “Active status” means the license is valid and current and that the licensee is authorized by the board to practice optometry in New Mexico.

C. “Expired status” means the license has not been renewed by the license expiration date in accordance with 16.16.11.8 NMAC, but is still under the statutory authority of the board for the period specified in 16.16.11.16 NMAC.

D. “Inactive status” means a New Mexico license that has been placed on non-working status in accordance with board rule 16.16.9 NMAC, provided the licensee is practicing in another state and is currently in good standing with that state.

E. “Null and void status” means an expired, retired, or inactive status license that has passed the time limitation set forth in 16.16.11.16 NMAC or 16.16.12.15 NMAC, or 16.16.9.16 NMAC, and is thus lapsed and cannot be reactivated.

F. “Lapsed license” means a license that is null and void.


16.16.9.8 REQUIREMENTS FOR INACTIVE STATUS: A licensee whose license is in good standing with the board, and who is practicing in another state, may request his/her license be placed on inactive status by meeting the following requirements:

A. Complete, sign, and return the renewal application form, specifying the intent to be placed on inactive status.

B. Submit verifications for the required number of continuing education hours.

C. Remit the required inactive status fee (see 16.16.2.18 NMAC).

D. Return the application postmarked on or before the license expiration date.

[16.16.9.8 NMAC - N, 03-15-2004]
16.16.9.9 INACTIVE STATUS NOTIFICATION: Upon receipt of a duly and properly made application for inactive status, the board or its designee will review and approve the application and send the licensee written verification that the license has been placed on inactive status. A licensee with an inactive license will be required to renew it every year as defined in 16.16.10 NMAC. [16.16.9.9 NMAC - N, 03-15-2004; A, 07-06-2012]

16.16.9.10 PRACTICE PROHIBITED: During the period of inactive status, the optometrist is prohibited from practicing optometry in the state of New Mexico. [16.16.9.10 NMAC - N, 03-15-2004]

16.16.9.11 [RESERVED] [16.16.9.11 NMAC - N, 03-15-2004; Repealed, 07-06-2012]

16.16.9.12 REACTIVATION FROM INACTIVE STATUS: Upon receipt of the written request the board shall provide the applicant with a reactivation application.
   A. The completed application and the required reactivation fee as defined in 16.16.2.19 NMAC shall be delivered to the board’s consideration.
   B. Continuing education shall be at the current requirement of board-approved continuing education taken during the previous 12 months prior to reactivation as set forth in Subsection A of 16.16.13.8 NMAC. [16.16.9.12 NMAC - N, 03-15-2004; A, 07-06-2012]


16.16.9.14 REACTIVATION APPROVED:
   A. If the board finds the request for reactivation and reactivation application in order and is satisfied that the applicant has fulfilled the requirements as specified; the board shall reactivate the applicant's license.
   B. The optometrist may not practice optometry in New Mexico until the reactivated license has been received from the board. [16.16.9.14 NMAC - N, 03-15-2004]

16.16.9.15 INELIGIBILITY FOR REACTIVATION:
   A. The optometrist whose license was on inactive status in New Mexico will be ineligible for license reactivation if he or she is under investigation, is facing disciplinary proceedings, or has had a disciplinary action taken against his or her license in any jurisdiction while on inactive status in New Mexico.
   B. An optometrist whose application for reactivation from inactive status has been denied shall be afforded an opportunity for a hearing under Section 61-1-4 of the Uniform Licensing Act. [16.16.9.15 NMAC - N, 03-15-2004]

16.16.9.16 TIME LIMITATION ON INACTIVE STATUS LICENSE:
   A. Licenses on inactive status that are not reactivated within five years from the date the inactive status was approved, shall become null and void (lapsed). Null and void (lapsed) licenses may not be reactivated.
   B. In order to practice optometry in New Mexico, the optometrist whose New Mexico license has become null and void (lapsed) must complete the entire application process and meet all the licensure requirements in effect at the time of application, including re-examination by the board. [16.16.9.16 NMAC - N, 03-15-2004]

History of 16.16.9 NMAC: [RESERVED]
TITLE 16  OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16  OPTOMETRIC PRACTITIONERS
PART 10  RENEWAL OF NEW MEXICO OPTOMETRY LICENSES

16.16.10.1 ISSUING AGENCY: New Mexico Board of Optometry.

16.16.10.2 SCOPE: Part 10 of Chapter 16 applies to all New Mexico optometry licensees.
[10-14-95; 16.16.10.2 NMAC - Rn, 16 NMAC 16.10.2, 03-15-2001]

[10-14-95; 16.16.10.3 NMAC - Rn, 16 NMAC 16.10.3, 03-15-2001]

16.16.10.4 DURATION: Permanent.
[10-14-95; 16.16.10.4 NMAC - Rn, 16 NMAC 16.10.4, 03-15-2001]

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

16.16.10.6 OBJECTIVE: The objective of Part 10 of Chapter 16 is to set forth the requirements and procedures for license renewal. Through the renewal process, the board ensures that licensees are continuing the educational process and keeping up with advancements in the profession.
[10-14-95; 10-15-97; 16.16.10.6 NMAC - Rn, 16 NMAC 16.10.6, 03-15-2001]

16.16.10.7 DEFINITIONS: “Expired license” means the license has not been renewed by the license expiration date in accordance with 16.16.11.8 NMAC, but is still under the statutory authority of the board for the period specified in 16.16.11.16 NMAC.

16.16.10.8 LICENSE EXPIRATION DATE: All current New Mexico optometry licenses not renewed by July 1 of every year shall be considered expired.
[10-14-95; 16.16.10.8 NMAC - Rn, 16 NMAC 16.10.8, 03-15-2001; A, 03-22-2008; A, 07-06-2012]

16.16.10.9 LICENSE RENEWAL DEADLINE: Licenses must be renewed on or before July 1 of each year to be considered current.
[10-14-95; 16.16.10.9 NMAC - Rn, 16 NMAC 16.10.9, 03-15-2001]

16.16.10.10 LICENSE RENEWAL NOTIFICATION: License renewal notification will be mailed at least 45 days prior to the expiration date of the license.
[10-14-95; 16.16.10.10 NMAC - Rn, 16 NMAC 16.10.10, 03-15-2001; A, 07-06-2012]

16.16.10.11 CURRENT ADDRESS NOTIFICATION:
A. License renewal notification will be mailed to the last address on file with the board. It is the responsibility of the licensee to keep the board informed of any changes in home or employment addresses and phone numbers.
B. It is a licensee’s responsibility to renew a license. Failure to receive the renewal notification shall not relieve the licensee of the responsibility of renewing the license by the expiration date.
[10-14-95; 16.16.10.11 NMAC - Rn, 16 NMAC 16.10.11, 03-15-2001; A, 07-06-2012]

16.16.10.12 RENEWAL APPLICATION:
A. A completed license renewal application, verification of continuing education, a current CPR certification and applicable renewal fee must be received in the board office on or before July 1 of every year. The CPR course shall show a current certification attesting to completion of a CPR course offered by the American red cross, the American heart association, or the American safety and health institute (ASHI). The course cannot be a self-study. CPR is not considered continuing education.
B. The board may audit any licensee’s continuing education documentation for the current licensing year and the two previous years.

HISTORY of 16.16.10 NMAC:
Pre-NMAC History: None

History of Repealed Material: [RESERVED]

Other History:
16 NMAC 16.10, Renewal Of New Mexico Optometry License, filed 9-21-95, renumbered and reformatted to 16.16.10 NMAC, Renewal Of New Mexico Optometry License, effective 03-15-2001.
TITLE 16  OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16  OPTOMETRIC PRACTITIONERS
PART 11  LICENSE EXPIRATION DUE TO NON-RENEWAL; REACTIVATION

16.16.11.1  ISSUING AGENCY: New Mexico Board of Optometry.

16.16.11.2  SCOPE: Part 11 of Chapter 16 applies to licensees whose licenses have expired due to non-
renewal and who wish to reactivate their license.

16.16.11.3  STATUTORY AUTHORITY: The authority for Part 11 of Chapter 16 is Section 61-2-6.D. (9);
Section 61-2-11.A. (5); and Section 61-2-12 NMSA 1978.
[10-14-95; 16.16.11.3 NMAC - Rn, 16 NMAC 16.11.3, 03-15-2001]

16.16.11.4  DURATION: Permanent.
[10-14-95; 16.16.11.4 NMAC - Rn, 16 NMAC 16.11.4, 03-15-2001]

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

16.16.11.6  OBJECTIVE: The object of Part 11 of Chapter 16 is to set forth regulations on expiration of
an optometry license due to non-renewal and the requirements for reactivation of the license. When a licensee fails
to renew or reactivate an expired license after a certain time period and the license becomes null and void and
lapses, the board requires a reapplication process to re-test the applicant for competence to practice the profession in
New Mexico, ensuring continued competence and thereby protecting the health, safety, and welfare of the public.

16.16.11.7  DEFINITIONS:
A. “Valid license” means a license that is subject to regulation by, and statutory authority of, the
board.
B. “Active status” means the license is valid and current and that the licensee is authorized by the
board to practice optometry in New Mexico.
C. “Expired status” means the license has not been renewed by the license expiration date in
accordance with 16.16.11.8 NMAC, but is still under the statutory authority of the board for the period specified in
16.16.11.16 NMAC.
D. “Inactive status” means a New Mexico license that has been placed on non-working status in
accordance with board rule 16.16.9 NMAC, provided the licensee is practicing in another state and is currently in
good standing with that state.
E. “Null and void status” means an expired, retired, or inactive status license that has passed the
time limitation set forth in 16.16.11.16 NMAC or 16.16.12.15 NMAC, or 16.16.9.16 NMAC, and is thus lapsed and
cannot be reactivated.
F. “Lapsed status” means a license that is null and void.
G. “Retired status” means a license that has been withdrawn from active status at the request of the
licensee because the licensee has retired from business and is no longer practicing optometry in any licensing
jurisdiction, but which is still subject to the authority of the board for a period of five years after the license was
placed on retired status as specified in 16.16.12.15 NMAC.

16.16.11.8  LICENSE EXPIRATION DUE TO NON-RENEWAL: Licenses not renewed on or before July
1, as set forth in 16.16.10.8 NMAC, shall be expired.

16.16.11.9  LATE PENALTY FEE: Licenses not renewed on or before July 1, as set forth in 16.16.10.8
NMAC, shall be subject to the required late penalty fee, as provided in 16.16.2.14 NMAC, in addition to the renewal
fee, as provided in 16.16.2.13 NMAC.
16.16.11.10  [RESERVED]
[10-14-95; 16.6.11.10 NMAC - Rn, 16 NMAC 16.11.10, 03-15-2001; Repealed, 03-15-2004]

16.16.11.11 LICENSE STATUS REPORTED: Licenses that expire or that are inactive, retired, revoked or suspended for any other reason, shall be reported by the board to the New Mexico board of pharmacy, as required by the Optometry Act; to other state or federal agencies as required; and to any other inquirer as requested.

16.16.11.12 PRACTICE PROHIBITED:
A. An optometrist shall not practice optometry in the state of New Mexico while his or her license is expired; or while it is inactive, retired, revoked, suspended, or is otherwise invalid as provided in Section 61-2-14 (A) NMSA 1978.
B. Any person who practices optometry in New Mexico without an active, current, and valid license is guilty of a fourth degree felony and upon conviction shall be sentenced pursuant to the provisions in Section 61-31-18-5.A (6) NMSA 1978, which states, “If a person is convicted of a non-capital felony, the basic sentence of imprisonment is as follows: for a fourth degree felony, 18 months imprisonment.”
C. The court may, in addition to the imposition of a basic sentence of imprisonment, impose a fine not to exceed $5,000.

16.16.11.13 APPLICATION FOR REACTIVATION OF LICENSE: The licensee whose license is expired due to non-renewal, and who wishes to reactivate the license to active and current status, must apply for, and receive, approval by the board for reactivation of the license. The application for reactivation must be made on a reactivation form received from the board office, and must be accompanied by the following items:
A. proof of completion of a minimum of 22 hours of board-approved continuing education (see 16.16.13 NMAC) taken for each year the license was expired due to non-renewal, 22 of which must have been taken in the immediate preceding year;
B. verification directly from at least one of the applicant’s other licensing jurisdiction(s) certifying that the licensee has been in active practice there during the time the license was in expired status due to non-renewal in New Mexico, unless the New Mexico license has only been in expired status for less than a year, in which case verification of licensure from another licensing jurisdiction is not necessary;
C. verification directly from the applicant's other licensing jurisdiction(s), as to the status of the license with respect to disciplinary actions if the New Mexico license is in expired status for more than a year, and provided that the licensee is licensed in other jurisdiction(s);
D. a reactivation fee in an amount totaling the renewal fees for each year the license was in expired status due to non-renewal; and
E. a penalty fee in an amount totaling the penalty fees for each year the license was in expired status due to non-renewal.

16.16.11.14 REACTIVATION APPROVED: Upon receiving approval for license reactivation by the board, the applicant will receive a reactivated license to practice optometry in the state of New Mexico.

16.16.11.15 REACTIVATION DENIED: An applicant whose application for reactivation has been denied shall be afforded an opportunity for a hearing under Section 61-1-4 of the Uniform Licensing Act.

16.16.11.16 TIME LIMITATION FOR REACTIVATION: The time limitation for reactivating a license that has been expired due to non-renewal is five years.
A. Licenses not reactivated within the time limitation specified shall become null and void (lapsed).
B. Null and void (lapsed) licenses may not be reactivated.
APPLICATION FOR LICENSURE REQUIRED: In order to practice optometry in New Mexico, the optometrist whose New Mexico license has become null and void (lapsed) must complete the entire application process and meet all the licensure requirements in effect at the time of application, including re-examination by the board.

HISTORY of 16.16.11 NMAC:
Pre-NMAC History: None

History of Repealed Material: [Reserved]

Other History:
16 NMAC 16.11, License Expiration; Revocation Due To Non-Renewal; Reactivation, filed 9-21-95, renumbered and reformatted to 16.16.11 NMAC, License Expiration; Revocation Due To Non-Renewal; Reactivation, effective 03-15-2001.
TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16 OPTOMETRIC PRACTITIONERS
PART 12 RETIREMENT AND REINSTATEMENT OF OPTOMETRY LICENSE

16.16.12.1 ISSUING AGENCY: New Mexico Board of Optometry.

16.16.12.2 SCOPE: Part 12 of Chapter 16 applies to all optometrists who wish to place their New Mexico licenses in retirement status.


16.16.12.4 DURATION: Permanent.

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

16.16.12.6 OBJECTIVE: The objective of Part 11 of Chapter 16 is to set forth the requirements and procedures for placing a New Mexico optometry license in retirement status and having it reinstated from retirement status.

16.16.12.7 DEFINITIONS: "Retired status" means a license that has been withdrawn from active status at the request of the licensee due to retirement provided the licensee is not practicing optometry in another jurisdiction. Such license is still subject to the board authority for five years from the date the license is placed on retired status as specified in 16.16.12.15 NMAC.

16.16.12.8 RETIREMENT OF LICENSE: Any optometrist who wishes to retire from practice shall notify the board, in writing, prior to the expiration date of his or her license.
A. If the licensee meets the time frame and continuing education requirements set forth in 16.16.12.8 NMAC, the license will be retired. The licensee’s date of retirement will be recorded as the expiration date of that year in the minutes of the next regularly scheduled board meeting.
B. The optometrist shall be exempt from payment of the yearly renewal fees during the period of retirement.

16.16.12.9 PRACTICE PROHIBITED: During the period of retirement, the optometrist is prohibited from practicing optometry in the state of New Mexico.

16.16.12.10 NOTIFICATION OF INTENT TO REINSTATE LICENSE: Any optometrist who has retired as provided in 16.16.12.8 NMAC may, within five years from the date his/her license was retired, notify the board in writing of his/her desire to resume active practice. The applicant shall provide the following information.
A. the license number of the former license;
B. the applicant's full name;
C. the applicant's home address and phone number;
D. the date the applicant's license was originally issued; and
E. the date of the applicant's retirement.
16.16.12.11 **REINSTATEMENT PROCESS:** Upon receipt of the written request required in 16.16.12.10 NMAC, the board shall mail the applicant a reinstatement form stipulating the fees and the number of board-approved continuing education hours required for reactivation of his or her license.

A. The reactivation fee shall be the total of the renewal fees for each year the license was in retired status.

B. Continuing education shall be at the current requirement of board-approved continuing education taken for each year during the retirement period, and the provisions set forth in Subsection A of 16.16.13.8 NMAC related to optometrists holding certification in ocular therapeutics will apply for each year in retired status.

C. Twenty-two of those hours shall be taken during the year immediately preceding reactivation of the license. At least 10 of the 22 hours must be in a board-approved program in ocular therapeutic pharmacology.


16.16.12.12 **REINSTATEMENT APPLICATION REVIEW:** The optometrist shall return the completed, signed, and notarized reinstatement form, the required fee, and copies of the continuing education proofs of attendance certificates to the board office.


16.16.12.13 **REINSTATEMENT APPROVED:**

A. If the board finds the application in order and is satisfied that the applicant has fulfilled the requirements as specified, the board shall reinstate the applicant's license.

B. The retiree may not resume the practice of optometry until the reactivated license has been received from the board.


16.16.12.14 **INELEGIBILITY FOR REINSTATEMENT:**

A. The retired optometrist will be ineligible for reinstatement if he or she is under investigation, is facing disciplinary proceedings, or has had a disciplinary action taken against his or her license in any jurisdiction while on retired status in New Mexico.

B. A retired optometrist whose application for reinstatement has been denied shall be afforded an opportunity for a hearing under Section 61-1-4 of the Uniform Licensing Act.


16.16.12.15 **TIME LIMITATIONS ON RETIREMENT STATUS:** If application for reinstatement of the license is not made before the end of the five-year retirement or reinstatement period, the optometrist’s New Mexico license shall lapse. The optometrist must reapply to the board for licensure by examination. All application requirements as stated in Part 3 of 16.16 NMAC must be met.


**HISTORY of 16.16.12 NMAC:**
Pre-NMAC History:
Material in the part was derived from that previously filed with the commission of public records - state records center and archives:
NMBO Rule 21, Board Rule No. 21 - Retirement And Reinstatement, filed 7-22-92.
NMBO Rule 21, Board Rule No. 21 - Retirement And Reinstatement, filed 5-25-94.

History of Repealed Material: [Reserved]

Other History:
16 NMAC 16.12, Retirement And Reinstatement Of Optometry License, filed 9-21-95, replaced NMBO Rule 21, Board Rule No. 21 - Retirement And Reinstatement.
16 NMAC 16.12, Retirement And Reinstatement Of Optometry License, filed 9-21-95, renumbered and reformatted to 16.16.12 NMAC, Retirement And Reinstatement Of Optometry License, effective 03-15-2001.
TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16 OPTOMETRIC PRACTITIONERS
PART 13 CONTINUING EDUCATION

16.16.13.1 ISSUING AGENCY: New Mexico Board of Optometry.

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


16.16.13.4 DURATION: Permanent.

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

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

16.16.13.7 DEFINITIONS: [RESERVED]

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

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

B. For optometrists on inactive status, a minimum of 10 hours of continuing education in a board approved program in clinical or ocular therapeutic pharmacology is required.

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

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

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

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

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

H. Newly licensed optometrists who graduated from optometry school within the same year of licensure may submit the completed curriculum of their last year of optometry school to meet their continuing education requirement the first year of renewal.
[11-17-73; 2-6-87; 10-14-95; 10-15-97; 2-15-99; 16.16.13.8 NMAC - Rn, 16 NMAC 16.13.8, 03-15-2001; A, 03-
16.16.13.9 **APPROVED CONTINUING EDUCATION:** All subjects of education must be directly related to optometry. The New Mexico board of optometry approves the following programs for continuing education credit, as well as those listed on the updated list available on the board’s web site.

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

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

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

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

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


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

History of Repealed Material: [RESERVED]

Other History:
16 NMAC 16.13, Continuing Education, filed 9-21-95, replaced that relevant portion of NMBO Rule 6, Board Rule No. 6 - Continuing Education and NMBO Rule 7, Board Rule No. 7 - Continuing Education.
TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16 OPTOMETRIC PRACTITIONERS
PART 14 DUPLICATE AND REPLACEMENT LICENSES

16.16.14.1 ISSUING AGENCY: New Mexico Board of Optometry.

16.16.14.2 SCOPE: Part 14 of Chapter 16 applies to all New Mexico licensed optometrists requiring a
duplicate or replacement license and/or certificate.

16.16.14.3 STATUTORY AUTHORITY: The authority for Part 14 of Chapter 16 is Section 61-2-6.D. (2)


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

16.16.14.6 OBJECTIVE: The objective of Part 14 of Chapter 16 is to set forth the requirements and
procedures for the licensee to request and receive a duplicate or replacement license and/or
certificate.

16.16.14.7 DEFINITIONS: [RESERVED]

16.16.14.8 LICENSE LOST OR DESTROYED: In the event a license is lost or destroyed, the Board shall
issue a duplicate license upon receipt of the following:
A. notice of the loss; and
B. fee(s) in an amount provided by law or regulation (See 16.16.2.15 and 16.16.2.16 NMAC).

16.16.14.9 LEGAL NAME CHANGE: If a licensee requests a new license to be compatible with a legal
name change, the board may issue a new license or certificate upon receipt of the following:
A. the old license;
B. proof of name change; and
C. fee(s) in an amount provided by law or regulation 16.16.2.15 and 16.16.2.16 NMAC.

HISTORY of 16.16.14 NMAC:
Pre-NMAC History:
Material in the part was derived from that previously filed with the commission of public records - state records
center and archives:
NMBO Rule 19, Board Rule No. 19 - Duplicate/Replacement Licenses Or Certificates, filed 7-22-92.

History of Repealed Material: [Reserved]

Other History:
16 NMAC 16.14, Duplicate And Replacement Licenses, filed 9-21-95, replaced NMBO Rule 19, Board Rule No. 19
- Duplicate/Replacement Licenses Or Certificates.
16 NMAC 16.14, Duplicate And Replacement Licenses, filed 9-21-95, renumbered and reformatted to 16.16.14
16.16.15.1 ISSUING AGENCY: New Mexico Board of Optometry.
[16.16.15.1 NMAC - N, 04-24-2014]

16.16.15.2 SCOPE: The provisions in Part 15 of Chapter 16 apply to all New Mexico licensed optometrists.
[16.16.15.2 NMAC - N, 04-24-2014]

16.16.15.3 STATUTORY AUTHORITY: Part 15 of Chapter 16 is promulgated pursuant to and in accordance with the Optometry Act, Section 61-2-3, NMSA 1978 and the Pain Relief Act, Sections 24-2D-1 through 24-2D-1-6, NMSA 1978.
[16.16.15.3 NMAC - N, 04-24-2014]

16.16.15.4 DURATION: Permanent.
[16.16.15.4 NMAC - N, 04-24-2014]

16.16.15.5 EFFECTIVE DATE: April 24, 2014, unless a later date is cited at the end of a section.
[16.16.15.5 NMAC - N, 04-24-2014]

16.16.15.6 OBJECTIVE: The objective of Part 15 of Chapter 16 is to set forth rules related to the prescribing and dispensing of controlled substances. It is the position of the board that optometrists have an obligation to treat pain, and that a wide variety of drugs including controlled substances may be prescribed for that purpose. When such controlled substances are used, they should be prescribed in adequate doses and for the appropriate length of time after a thorough evaluation has been completed.
[16.16.15.6 NMAC - N, 04-24-2014]

16.16.15.7 DEFINITIONS:
A. “Addiction” means a neurobehavioral syndrome with genetic and environmental influences that result in psychological dependence on the use of substances for their psychic effects. It is characterized by behaviors that include one or more of the following: impaired control over drug use; compulsive use; continued use despite harm; and craving.
B. “Acute pain” means the normal, predicted physiological response to a noxious chemical or thermal or mechanical stimulus, typically associated with invasive procedures, trauma or disease and is generally time-limited.
C. “Chronic pain” means pain that persists after reasonable efforts have been made to relieve the pain or its cause and that continues, either continuously or episodically, for longer than three consecutive months. “Chronic pain” does not, for purpose of the Pain Relief Act requirements, include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.
D. “Clinical expert” means a person who, by reason of specialized education or substantial relevant experience in pain management, has knowledge regarding current standards, practices and guidelines.
E. “Drug abuser” means a person who takes drugs or controlled substances for other than legitimate purposes.
F. “Pain” means acute or chronic pain or both.
G. “Physical dependence” means a state of adaptation that is manifested by a drug-specific withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, administration of an antagonist, or a combination of these.
H. “Prescription monitoring program (PMP)” means a centralized system to collect, monitor, and analyze electronically, for controlled substances, prescribing and dispensing data submitted by pharmacies and dispensing practitioners. The data is used to support efforts in education, research, enforcement, and abuse prevention.
I. “Therapeutic purpose” means the use of pharmaceutical and non-pharmaceutical treatment that conforms substantially to accepted guidelines for pain management.
J. “Tolerance” means a state of adaptation in which exposure to a drug induces changes that result in a diminution of one or more of the drug’s effects over time.

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

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

A. The treatment of pain with drugs or controlled substances is a legitimate optometric practice when accomplished in the usual course of professional practice. It does not preclude treatment of patients with addiction, physical dependence or tolerance, who have legitimate pain. However, such patients do require very close monitoring and precise documentation.

B. The prescribing, ordering, administering or dispensing of controlled substances to meet the individual needs of the patient for management of chronic pain is appropriate if prescribed, ordered, administered or dispensed in compliance with the following:

(1) An optometrist shall complete an evaluation. The medical history shall include any previous history of significant pain, past history of alternate treatments for pain, potential for substance abuse, coexisting disease or medical conditions, and the presence of a medical indication for or contra-indication against the use of controlled substance.

(2) An optometrist shall be familiar with and employ screening tools as appropriate, as well as the spectrum of available modalities, in the evaluation and management of pain. The optometrist shall consider an integrative approach to pain management.

(3) A written treatment plan shall be developed and tailored to the individual needs of the patient, taking age, gender, culture, and ethnicity into consideration, with stated objectives by which treatment can be evaluated, e.g. by degree of pain relief, improved physical and psychological function, or other accepted measure. Such a plan shall include a statement of the need for further testing, consultation, referral or use of other treatment modalities.

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

(5) Complete and accurate records of care provided and drugs or controlled substances prescribed shall be maintained. When controlled substances are prescribed, the name of the drug, quantity, prescribed dosage and number of refills authorized shall be recorded. Prescriptions for controlled substances shall include indications for use.

(6) The management of patients needing chronic pain control requires monitoring by the optometrist. The optometrist shall periodically review the course of treatment for chronic pain, the patient’s state of health, and any new information about the etiology of the chronic pain at least every six months. Chronic pain patients shall receive all chronic pain management prescriptions from one optometrist and one pharmacy whenever possible.

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

(8) If, in an optometrist’s opinion, a patient is seeking pain medication for reasons that are not medically justified, the optometrist is not required to prescribe controlled substances for the patient.

C. The board will evaluate the quality of care on the following basis: appropriate diagnosis and evaluation; appropriate indication for the treatment prescribed; documented change or persistence of the recognized indication; and, follow-up evaluation with appropriate continuity of care. The board will judge the validity of prescribing based on the optometrist’s treatment of the patient and on available documentation, rather than on the quantity and chronicity of prescribing. The goal is to control the patient’s pain for its duration while effectively addressing other aspects of the patient’s functioning, including physical, psychological, social, and work-related factors.

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

E. An optometrist who appropriately prescribes controlled substances and who follows this section would be considered to be in compliance with this rule and not be subject to discipline by the board, unless there is some violation of the Optometry Act or board rules.

[16.16.15.8 NMAC - N, 04-24-2014]
16.16.15.9 OPTOMETRISTS TREATED WITH CONTROLLED SUBSTANCES: Optometrists who have chronic pain and are being treated with controlled substances shall be evaluated by a pain clinic, an M.D. or D.O. pain specialist, and must have a complete, independent neuropsychological evaluation, as well as clearance from their physician, before returning to or continuing in practice. In addition, they must remain under the care of a physician for as long as they remain on controlled substances while continuing to practice. [16.16.15.9 NMAC - N, 04-24-2014]

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

A. Any licensed NM optometrist who holds a federal drug enforcement administration registration and a New Mexico controlled substance registration shall register with the board of pharmacy to become a regular participant in PMP inquiry and reporting.

B. A licensed NM optometrist may authorize delegate(s) to access the PMP report consistent with board of pharmacy regulation 16.19.29 NMAC and document 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, or IV to a patient for a period greater than 4 days, or if there is a gap in prescribing the controlled substances for 30 days of more, the practitioner shall review a PMP report for the patient for preceding 12 months and document the receipt and review of the reports in the patient’s medical record.

D. A PMP report shall be reviewed a minimum of once every three months during the continuous use of a controlled substance in Schedule II, III, or IV for each patient and document these reports in the patient’s medical record.

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

   (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 PMP report for a patient, the practitioner shall identify and be aware of 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, request 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 of risks that may result in opioid misuse, abuse or overdose. These steps may involve prescription and training for naloxone. [16.16.15.10 NMAC - N, 04-24-2014; A, 03-02-2016; A, 03-10-2017]

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

A. This requirement is effective for the 2015 renewal period beginning July 2, 2014. No later than July 1, 2015 all board licensees shall have completed at least one continuing education hour in a course that shall cover topics related to pain management, pharmacology and risks of controlled substances, state and federal regulations for the prescription of controlled substances, or awareness of the problems of abuse, addiction and diversion as stated in 16.16.13.9 NMAC.

B. The continuing education courses are subject to prior board approval and shall count toward the total continuing education requirements as set forth in 16.16.13.9 NMAC. [16.16.15.11 NMAC - N, 04-24-2014]
NOTIFICATION: In addition to the notice of procedures set forth in the State Rules Act Chapter 14, Article 4, NMSA 1978, the board shall separately notify the following persons of the Pain Relief Act and Part 15 of the New Mexico Optometry board rule;
   A. health care practitioners under its jurisdiction; and
   B. a health care practitioner being investigated by the board in relation to the practitioner’s pain management services.
[16.16.15.12 NMAC - N, 04-24-2014]
TITLE 16  OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16  OPTOMETRIC PRACTITIONERS
PART 16  PRACTICE LOCATION; OWNERSHIP; PATIENT MEDICAL RECORDS RETENTION

16.16.16.1 ISSUING AGENCY: New Mexico Board of Optometry.
[10-14-95; 2-15-99; A, 6-26-00; 16.16.16.1 NMAC - Rn, 16 NMAC 16.16.1, 03-15-2001; A, 07-06-2012]

16.16.16.2 SCOPE: Part 16 of Chapter 16 applies to all optometrists licensed by the Board and practicing in New Mexico.
[10-14-95; 16.16.16.2 NMAC - Rn, 16 NMAC 16.16.2, 03-15-2001]


16.16.16.4 DURATION: Permanent.
[10-14-95; 16.16.16.4 NMAC - Rn, 16 NMAC 16.16.4, 03-15-2001]

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

16.16.16.6 OBJECTIVE: The objective of Part 16 of Chapter 16 is to set forth the requirements related to practice location, ownership, leasing arrangements, purchase of practice, and so forth.
[10-14-95; 16.16.16.6 NMAC - Rn, 16 NMAC 16.16.6, 03-15-2001]

16.16.16.7 DEFINITIONS: [RESERVED]
[10-14-95; 16.16.16.7 NMAC - Rn, 16 NMAC 16.16.7, 03-15-2001]

16.16.16.8 LOCATION OF PRACTICE:
A. In accordance with the provisions of Section 61-2-14.B of the Optometry Act, an optometrist is prohibited from selling prescription eyeglasses or contact lenses, frames or mountings for lenses in an establishment in which the majority of its income is not derived from being engaged in that endeavor.
B. For purposes of this rule, an optometrist may engage in the sale of contact lenses or prescription eyeglasses from a space located adjacent to an establishment as set out in Subsection A provided the space is separated from the commercial establishment by solid, opaque partitions or walls from floor to ceiling.
C. The space referred to in this rule shall also have a separate entrance for patient access to the optometrist's practice from a public street, hall, lobby, corridor or shopping mall, or other public thoroughfare.
D. Repealed.
E. This rule supersedes all previous rules regarding the location of an optometric practice. Existing facilities operating on June 24, 1994, the effective date of this rule shall be exempted from the provisions of Subsection B of 16.16.16.8 NMAC.
[11-17-73; 12-6-87; 8-21-92; 6-24-94; 10-14-95; 10-15-97; A, 6-26-00; 16.16.16.8 NMAC - Rn, 16 NMAC 16.16.8, 03-15-2001; A, 03-15-2004; A 03-22-2008]

16.16.16.9 [RESERVED]

16.16.16.10 PURCHASE OF AN ESTABLISHED PRACTICE:
A. Upon the purchase or assumption of another optometrist's practice, the identification of the other optometrist's name with the practice shall be limited to a maximum period of four years.
B. Upon the death or permanent disability of a New Mexico licensed optometrist, the surviving spouse or estate of the optometrist may contract optometric services or employ a New Mexico licensed optometrist for a period not to exceed 36 months from the time of death or permanent disability.
C. The surviving spouse or estate of the optometrist must file, with the New Mexico board of examiners in optometry, an affidavit stating that the practice will be operated within the provisions of the Optometry Act, the board's rules and regulations, and board policies. Violations will result in the suspension of the 36 month period.
**16.16.16.11 PATIENT RECORDS MANAGEMENT:**

A. Optometrists shall retain medical records they own for a period of at least five years from the date of last treatment.

B. Thirty days before the closing, selling, relocation or leaving of a practice an optometrist shall notify the board office and patients seen within the last five years. Notices will be given pursuant to Subsection C of this section.

C. Notification shall be satisfied using any of the following methods:

1. Publication of at least one notice in a local newspaper, twice a month for a period of three months; notice should indicate how to obtain patient records and contact information for the individual with access to the patient records;

2. Written or electronic mail; or

3. Individual correspondence to the patient’s last known physical or electronic mailing address.

[16.16.16.11 NMAC - N, 07-06-2012]

**HISTORY of 16.16.16 NMAC:**

**Pre-NMAC History:**
Material in the part was derived from that previously filed with the commission of public records - state records center and archives:
- OEB 73-1, Rule No. 3 of the Administrative Rules and Regulations of the State Board of Examiners in Optometry, filed 10-18-73.
- NMBO Rule 3, Board Rule No. 3 - Location of Practice, filed 7-22-92.
- NMBO Rule 9, Board Rule No. 9 - Purchase of Established Practice, filed 5-25-94.

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

**Other History:**
- 16 NMAC 16.16, Practice Location; Ownership, filed 9-21-95, replaced that relevant portion of NMBO Rule 3, Board Rule No. 3 - Location of Practice, and NMBO Rule 9, Board Rule No. 9 - Purchase of Established Practice.
- 16 NMAC 16.16, Practice Location; Ownership, filed 9-21-95, was renumbered and reformatted to 16.16.16 NMAC, Practice Location; Ownership, effective 03-15-2001.
TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16 OPTOMETRIC PRACTITIONERS
PART 17 ADVERTISING

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

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

16.16.17.3 STATUTORY AUTHORITY: The authority for Part 17 of Chapter 16 is Section 61-2-13;

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

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

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

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

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

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

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

C. A false, fraudulent, misleading, deceptive, or unfair statement or claim includes, but is not limited
to, a statement or claim which:

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

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

1. the optometrist’s name;
2. address and telephone number of the optometrist's practice location; and
3. the designation of the profession in which the optometrist is licensed to practice: O.D., optometrist, doctor of optometry, or optometric physician, as provided in Subsection C of this rule.

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

C. New Mexico licensed optometrists shall be allowed to use the designation of “optometric physician” in their advertisements. The advertisement may be placed under the “physicians” title in the yellow pages under the following conditions:

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

[11-17-73; 11-7-80; 6-24-94; 10-14-95; 10-15-97; A, 6-26-00; 16.16.17.9 NMAC - Rn, 16 NMAC 16.17.9, 03-15-2001; A, 03-02-2016]

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

History of Repealed Material: [Reserved]

Other History:
16 NMAC 16.17, Advertising, filed 9-21-95, replaced that relevant portion of NMBO Rule 13, Advertising.
16 NMAC 16.17, Advertising, filed 9-21-95, was renumbered and reformatted to 16.16.17 NMAC, Advertising, effective 03-15-2001.
TITLE 16    OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16    OPTOMETRIC PRACTITIONERS
PART 18    IN-OFFICE MINOR SURGICAL PROCEDURES

16.16.18.1    ISSUING AGENCY: New Mexico Board of Optometry.
[16.16.18.1 NMAC - N, 03-22-2008; A, 07-06-2012]

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

16.16.18.3    STATUTORY AUTHORITY: The authority for Part 18 of Chapter 16 is the Optometry Act
[16.16.18.3 NMAC - N, 03-22-2008]

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

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

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

16.16.18.7    DEFINITIONS:
   A.    “Board” means the New Mexico board of optometry herein referred to as the board.
   B.    “Optometric physician” means an optometrist who administers pharmaceutical medications in
         the diagnosis, treatment and management of ocular diseases as provided in 16.16.7.11 NMAC.
[16.16.18.7 NMAC - N, 03-22-2008; A, 07-06-2012; A, 03-02-2016]

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

HISTORY of 16.16.18 NMAC: [RESERVED]
TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16 OPTOMETRIC PRACTITIONERS
PART 19 CONTACT LENSES

16.16.19.1 ISSUING AGENCY: New Mexico Board of Optometry.
[10-14-95; A, 6-26-00; 16.16.19.1 NMAC - Rn, 16 NMAC 16.19.1, 03-15-2001; A, 07-06-2012]

16.16.19.2 SCOPE: Part 19 of Chapter 16 applies to all optometrists licensed by the board and practicing in
New Mexico.

16.16.19.3 STATUTORY AUTHORITY: The authority for Part 19 of Chapter 16 is Section 61-2-2; Section

16.16.19.4 DURATION: Permanent.

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

16.16.19.6 OBJECTIVE: The objective of Part 19 of Chapter 16 is to set forth regulations on contact lens
prescription release.

16.16.19.7 DEFINITIONS:
A. “Replacement contact lens prescription” means a prescription prepared by a licensed
optometrist containing the information specified in Section 11 of this rule and written expressly for the purpose of
providing contact lenses that have already been properly fitted.

B. “Appropriate follow-up care” is that period of contact lens fitting time required to determine a
contact lens prescription that is appropriate to the documented clinical needs of the patient.

16.16.19.8 RELEASE OF CONTACT LENS PRESCRIPTION: [RESERVED]

16.16.19.9 CONTACT LENS EXAMINATION AND FOLLOW-UP FITTING REQUIRED:
A. No optometrist will prescribe contact lenses for a patient unless he/she has personally examined
and fitted the contact lenses to the eyes of the patient at the optometrist’s place of practice.
B. A replacement contact lens prescription is deemed to be determined after a refraction, eye health
examination, diagnostic contact lens fitting, instruction on care/maintenance procedures, and appropriate follow-up
care (16.16.19.7.B NMAC) have been performed.
C. [RESERVED]
D. No optometrist may write a replacement contact lens prescription until the procedures in
Subsections A and B of this rule have been performed (see 16.16.19.9 NMAC).
E. No optometrist may write a contact lens prescription for a patient whose eye health would be
compromised through wearing contact lenses.
F. If, in the professional opinion of the optometrist, a patient is not adhering to an appropriate
regimen of care and follow-up with regard to the use of contact lenses, the optometrist may terminate his/her care of
that patient. The optometrist shall notify the patient in writing that the optometrist is terminating care and shall state
his/her reason for doing so.

16.16.19.10 CONTACT LENS POLICIES AND PROCEDURES:
A. All contact lenses used in the determination of a contact lens prescription are considered to be
diagnostic lenses, and the use of such lenses by anyone other than a licensed optometrist or physician, or person
under the direct supervision of a licensed optometrist or physician, shall constitute the practice of optometry.

B. Any New Mexico licensed optometrist who dispenses contact lenses will observe the following provisions:

1. maintain regular office hours and be physically accessible to the patient;
2. be actively interacting with the patient’s professional care designed to detect disease, prevent infection due to patient and/or product variability;
3. provide eye examinations and/or contact lens related office visits; and
4. require a valid replacement contact lens prescription signed by the prescribing doctor.


16.16.19.11 REPLACEMENT CONTACT LENS PRESCRIPTION:

A. The licensed optometrist shall ensure that each replacement contact lens prescription that he/she prescribes contains all the ordering and fabrication specifications necessary for the proper duplication of the patient’s current prescription; and shall include the following:

1. date of issue;
2. name and address of the patient;
3. name, professional designation, address, and signature of the prescribing optometrist;
4. all parameters including, but not limited to, lens size and type, base curve, power, diameter, brand name, materials type, required to properly duplicate or replace the contact lens supply;
5. a specific date of expiration, of not more than 24 months from the time the patient was first examined, unless, in the professional opinion of the optometrist, a shorter expiration date is in the best interest of the patient;
6. any limitation on refills and notification of scheduled follow-up visits and recommended lens replacement interval; and
7. an explicit statement that the prescription is a replacement contact lens prescription.

B. The replacement contact lens prescription may contain the following items:

1. a specific statement noting that any person, firm, or corporation that dispenses or sells contact lenses from the prescription should inform the patient in writing of the following:
   a. that the patient should return to the prescribing optometrist to ascertain the accuracy and suitability of the contact lenses; and
   b. that the prescribing optometrist or physician shall not be responsible for any damage or injury resulting from negligence of third parties to include, but not be limited to, negligence in packaging, manufacturing, substitution, improper care regimen or recommendations (i.e. cleaning, disinfection, and wetting) or instructions provided by the seller that lead to over-wear of the contact lenses or improper care of contact lenses that result in damage to the lenses or the visual system, or change of the parameters of the contact lens, or filling the prescription after the expiration date;
2. notice that the contact lens dispenser shall not adapt, substitute, or change the contact lens prescription, including brand name or specific material types, without prior authorization from the prescribing optometrist or physician, because to do so would constitute the practice of optometry;
3. the words “OK for contact lens”, “fit with contact lenses”, or similar wording, do not constitute a contact lens prescription;
4. a statement of caution or a disclaimer, if the statement or disclaimer is supported by appropriate findings and documented in the patient’s records; and
5. wearing guidelines and/or specific instructions for use of the contact lenses by the patient.

[6-24-94, 10-14-95; A, 6-26-00; 16.16.19.11 NMAC - Rn, 16 NMAC 16.19.11, 03-15-2001; A, 6-08-01; A, 03-15-2004]

16.16.19.12 TERM OF PRESCRIPTION: An optometrist may not issue a contact lens prescription that expires before the second anniversary of the date the patient’s prescription parameters were determined, unless a shorter prescription period was clinically indicated by the patient’s ocular health or by potential harm to the patient’s ocular health.

[16.16.19.12 NMAC - N, 6-08-01; A, 03-15-2004]

16.16.19.13 SHORT-TERM PRESCRIPTION: If an optometrist writes a contact lens prescription for a period of less than two years, the optometrist shall complete the following:

A. give the patient a verbal explanation, at the time of the action, of the reason for the action; and
B. maintain a written explanation of the reason in the patient’s records.

[16.16.19.13 NMAC - N, 6-08-01; A, 03-15-2004]

**16.16.19.14 EXTENSION OF PRESCRIPTION:** An optometrist may extend a patient’s contact lens prescription expiration date without completing another eye examination if the optometrist deems it clinically indicated, and the reason shall be noted in the patient’s records.


**16.16.19.15 RELEASE OF REPLACEMENT CONTACT LENS PRESCRIPTION; TIMING:**

A. An optometrist who performs an eye examination and fits a patient for contact lenses shall prepare and provide the patient or anyone who is designated to act on behalf of the patient, with a replacement contact lens prescription when the patient’s contact lens fitting has been completed.

B. Optometrists shall display, in a prominent location in their office(s), a sign to inform their patients that they have a right to a copy of their replacement contact lens prescription.

C. The optometrist shall provide the patient with a copy of the replacement contact lens prescription as long as the prescription is valid. The replacement copy will still show the original expiration date.

D. A licensed optometrist who releases a replacement contact lens prescription to a patient may provide the patient with a written statement that wearing improperly fitted contact lenses may cause harm to the patient’s eyes and that the patient should have an eye examination if there are any changes in the patient’s vision, including pain or vision loss.


**16.16.19.16 LIMITATIONS ON, OR REFUSAL TO GIVE REPLACEMENT CONTACT LENS PRESCRIPTION:**

A. An optometrist may exclude categories of contact lenses from a replacement contact lens prescription if the exclusion is clinically indicated.

B. An optometrist may refuse to provide a replacement contact lens prescription to a patient if:
   (1) the patient’s ocular health presents a contraindication for contact lenses;
   (2) the refusal is warranted due to potential harm to the patient’s ocular health;
   (3) the patient has a medical condition indicating that:
       (a) the patient’s ocular health would be damaged if the prescription were released to the patient; or
       (b) further monitoring of the patient is needed;
   (4) the request is made after the second anniversary of the date of the patient’s last contact lens/eye examination.

C. If an optometrist refuses to give a patient his or her replacement contact lens prescription for any reason permitted under Subsection B of 16.16.19.16 NMAC, the optometrist must do the following:
   (1) give the patient a verbal explanation of the reason for the action at the time of the action; and
   (2) record and maintain, in the patient’s records, a written explanation of the reasons given for refusal.

D. Subsection B of 16.16.19.16 NMAC does not prohibit an optometrist from giving a patient the patient’s replacement contact lens prescription.

[16.16.19.16 NMAC - N, 6-08-01; A, 03-15-2004]

**16.16.19.17 COMPLIANCE REQUIRED; VIOLATION PENALTIES:**

A. A person or entity who is not a licensed optometrist or a licensed physician cannot sell or dispense replacement contact lenses unless registered with the New Mexico board of pharmacy. Pharmacies, hospitals and clinics licensed by the board of pharmacy are exempt from this rule.

B. Failure of an optometrist to comply with the provisions of this rule, 16.16.19 NMAC, shall be considered unprofessional and unethical conduct, and shall be dealt with in accordance with the appropriate provisions of Part 21 and Part 22 of 16.16.19 NMAC.

C. Adapting, substituting, or changing the contact lens prescription, including specified material types, without prior authorization from the prescribing doctor, constitutes the practice of optometry.

D. Practicing optometry without a license is a fourth degree felony violation punishable upon conviction as provided in the Criminal Code.
E. The board of optometry may impose a civil fine or no more than $1,000 on a licensed optometrist who fails to provide a requested replacement contact lens prescription; or who knowingly dispenses contact lenses without a valid replacement contact lens prescription; or who otherwise fails to comply with the provisions of this rule, 16.16.19 NMAC.


16.16.19.18 SALE OR DISPENSING OF REPLACEMENT CONTACT LENSES: The sale of all replacement contact lenses is regulated by the federal trade commission’s Contact Lens Rule which became effective in July 2004. Please see “a guide for prescribers and sellers” of contact lenses at http://www.ftc.gov/bcp/edu/pubs/business/health/bus62.shtm.


16.16.19.19 LIABILITY FOR USE OF PRESCRIPTION: When a patient’s replacement contact lens prescription is dispensed by a person other than that licensed optometrist or a person associated directly or indirectly with the licensed optometrist, the licensed optometrist is not liable for any injury to or condition of a patient caused solely by the negligence of the dispenser. Furthermore, an optometrist or therapeutic optometrist is not liable for a patient’s subsequent use of a contact lens prescription if the patient’s condition, age, general health, and susceptibility to an adverse reaction caused by or related to the use of contact lenses or other factors result in the patient no longer being a proper candidate for the contact lenses prescribed.


16.16.19.20 REGISTRATION REQUIRED FOR NON-LICENSEES TO SELL CONTACT LENSES:

A. A person who is not a licensed optometrist or a licensed physician shall not sell or dispense a contact lens to a resident of this state unless he/she is registered with the New Mexico board of pharmacy as a seller or dispenser of contact lenses; provided that pharmacies, clinics and hospitals licensed by the board of pharmacy shall be exempt from this requirement.

B. The board of pharmacy shall promulgate rules to establish the application procedures for obtaining registration and may include a requirement for payment of a fee by the applicant, but the amount of the fee shall not exceed the costs of implementing the registration requirement.

C. The board of pharmacy shall maintain a current list of all registered seller and dispensers of contact lenses.

D. A person, company, or entity that is not registered pursuant to this subsection and knowingly sells or dispenses contact lenses to a New Mexico resident is guilty of a misdemeanor and shall be sentenced pursuant to Section 31-19-1 NMSA 1978.


HISTORY of 16.16.19 NMAC:

Pre-NMAC History:
Material in the part was derived from that previously filed with the commission of public records - state records center and archives:
NMBO Rule 24, Board Rule No. 24 - Contact Lenses, filed 5-25-94.

History of Repealed Material: [Reserved]

Other History:
16 NMAC 16.19, Contact Lenses, filed 9-21-95, replaced NMBO Rule 24, Board Rule No. 24 - Contact Lenses.
TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16 OPTOMETRIC PRACTITIONERS
PART 20 OPHTHALMIC LENSES

16.16.20.1 ISSUING AGENCY: New Mexico Board of Optometry.

16.16.20.2 SCOPE: Part 20 of Chapter is written to provide information about the prescribing of ophthalmic lenses for eyeglasses.
[16.16.20.2 NMAC - N, 03-15-2004]

[16.16.20.3 NMAC - N, 03-15-2004]

16.16.20.4 DURATION: Permanent.
[16.16.20.4 NMAC - N, 03-15-2004]

16.16.20.5 EFFECTIVE DATE: March 15, 2004, unless a later date is cited at the end of a section.
[16.16.20.5 NMAC - N, 03-15-2004]

16.16.20.6 OBJECTIVE: The objective of Part 20 of Chapter 16 is to set forth rules related to the prescribing and dispensing of ophthalmic lenses and eyeglasses.
[16.16.20.6 NMAC - N, 03-15-2004]

16.16.20.7 DEFINITIONS:
A. “Ophthalmic lens” means a lens that has a spherical, cylindrical or prismatic value, is ground pursuant to a prescription and is intended to be used as eyeglasses.
B. “Eyeglasses” means an exterior optical device using ophthalmic lenses for the correction or relief of disturbances in the abnormalities of human vision.
[16.16.20.7 NMAC - N, 03-15-2004]

16.16.20.8 OPHTHALMIC PRESCRIPTION:
A. A prescription written for ophthalmic lenses shall include the following:
   (1) the dioptric power of spheres, cylinders and prisms;
   (2) the axes of cylinders;
   (3) the position of the prism base;
   (4) the designation of the pupillary distance;
   (5) the name of the patient;
   (6) the date of the prescription;
   (7) the expiration date of the prescription; and
   (8) the name and address of the prescriber
B. If so desired by the prescriber, the light transmission properties and the lens curve values may be included as well.
[16.16.20.8 NMAC - N, 03-15-2004]

16.16.20.9 AUTHORITY OF PERSON WHO SELLS AND DISPENSES EYEGLASSES: A person who sells and dispenses eyeglasses upon the written prescription of an optometrist, physician, or surgeon may determine the following:
A. the type, form, size, and shape of the ophthalmic lens;
B. the placement of optical centers for distance-seeing and near-work;
C. the designation of type and placement of reading segments in multivision lenses;
D. the type and quality of frame or mounting;
E. the type of bridge and distance between lenses;
F. the type, length and angling of temples; and
G. the designation of pupillary distance.
16.16.20.10 UNPROFESSIONAL CONDUCT RELATED TO OPHTHALMIC LENSES:

A. Refusing to provide the patient with his/her eyeglass prescription if the prescription is under a year old; or

B. Duplicating or replacing eyeglasses when the prescription is more than two years old without written authorization from the patient.

History of 16.16.20 NMAC: [RESERVED]
TITLE 16  OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16  OPTOMETRIC PRACTITIONERS
PART 21  UNPROFESSIONAL CONDUCT

16.16.21.1 ISSUING AGENCY: New Mexico Board of Optometry.
[10-14-95; A, 6-26-00; 16.16.21.1 NMAC - Rn, 16 NMAC 16.21.1, 03-15-2001; A, 07-06-2012]


16.16.21.4 DURATION: Permanent.

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

16.16.21.6 OBJECTIVE: The objective of Part 21 of Chapter 16 is to set forth the acts or conduct that constitute violations of the Optometry Act and the optometry regulations and the Uniform Licensing Act, and which subject the person in violation to disciplinary action by the board.

16.16.21.7 DEFINITIONS:
A. "Splitting or dividing of fees" 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, customers to any person, irrespective of any membership, proprietary interest, or co-ownership in or with any person to whom the patients, clients, or customers are referred.
B. "Professional superiority" means claiming, implying, guaranteeing, or representing that one has superior professional qualities, skills, abilities, credentials, training and professional service outcomes beyond those of similarly licensed optometrists.

16.16.21.8 DISCIPLINARY PROCESS INITIATED: In accordance with the provisions contained within the Uniform Licensing Act, the board may take disciplinary action if the board determines that the applicant or the licensee has violated any provision of the Optometry Act or the regulations of the board (16.16 NMAC).

16.16.21.9 ACTS OF UNPROFESSIONAL CONDUCT: The following exemplify the types of conduct or acts of omission that shall subject the licensee or applicant to disciplinary action by the board.
A. Any conduct whether an act or the omission of an act, which deceives or defrauds or tends to deceive or defraud the public.
B. Obtaining or attempting to obtain any fee by fraud, misrepresentation, deceit or any other deceptive or dishonest course of conduct.
C. Charging or attempting to charge any unusual, unreasonable, or exorbitant fee.
D. [RESERVED]
E. Splitting or dividing of fees with any person, as defined by this rule.
F. Advertising professional superiority, or advertising ophthalmic materials or services in violation of the rules of this board.
G. Breach of the confidentiality of information or knowledge about a patient obtained by the optometrist while acting in his or her professional capacity.
H. Seeing patients while under the influence of alcohol or controlled substances not prescribed for him or her by an individual authorized by law to prescribe controlled substances. For purposes of this regulation, the term "controlled substances" shall be defined as the term is defined by the New Mexico Controlled Substance Act.

I. Sexual misconduct with a patient, including but not limited to the making of unsolicited sexual advances to a patient.

J. Violation of any order or judgment of the board.

K. Impersonating another who is licensed to practice optometry, or permitting or allowing any person to use such license.

L. Employing or inducing an unlicensed person to perform any procedure that is considered the practice of optometry as defined in Sections 61-2-1 through 61-2-18 NMSA 1978 (1995 Repl. Pamp.).

M. Practicing beyond the scope of his/her optometry license as defined by state law and regulations.

N. Advertising in any manner that violates board regulations and state statutes on advertising.

O. Making false statements in any application for licensure or renewal of licensure.

P. Failing to report to the board the surrender of an optometric license or any formal disciplinary action, in another state or jurisdiction, in which there has been an adverse finding for acts or conduct which would constitute grounds for actions as defined in these rules.

Q. Failing to report to the board any criminal conviction of a felony.

R. Refusing to provide the patient with their eyeglass prescription if the prescription is under a year old.

S. Duplicating or replacing eyeglasses when the prescription is more than two years old without written authorization from the patient.

T. Failing to disclose and release patient information when requested by a patient or a health care provider upon a patient's authorization, or upon request from a health care provider when relating to the treatment of a patient, in accordance with the 1996 Health Insurance Portability and Accountability Act (HIPAA).


16.16.21.10 UNPROFESSIONAL CONDUCT RELATED TO PHARMACEUTICALS: The following unprofessional conduct related to pharmaceutical and controlled dangerous pharmaceutical agents shall be grounds for disciplinary action by the board. Violations of Subsections of this Section may also constitute fourth degree felony violations and may be subject to conviction, imprisonment, and fines pursuant to the provisions of Section 31-18-15 NMSA 1978 (see Subsections B and C of 16.16.11.12 NMAC).

A. Practicing optometry, including the use of pharmaceutical agents without a valid, current license.

B. Administering, dispensing and prescribing diagnostic, topical, or oral pharmaceutical agents without the proper certification by the board as set forth in Part 7 of 16.16 NMAC.

C. Administering, dispensing, and prescribing controlled dangerous drugs without proper certification by the board and the required controlled substances registration with the state of New Mexico and proper DEA registration with the drug enforcement administration as set forth in Part 8 of 16.16 NMAC.

D. Administering, dispensing and prescribing dangerous drugs for purposes other than generally accepted treatment for the relief of ocular abnormalities.

E. Indiscriminately or excessively administering, dispensing, or prescribing controlled dangerous substances.

F. Administering, dispensing and prescribing controlled dangerous substances to immediate family members for purposes other than as applied in the treatment and management of ocular disease.

G. [RESERVED]

H. Administering, dispensing, and prescribing controlled dangerous substances in excess of the amount considered good optometric practice.

I. Administering, dispensing, and prescribing controlled dangerous substances without medical need in accordance with published standards.

J. Disbursing or prescribing any controlled dangerous substance for the optometrist's personal use for any other use than as applied in the treatment and management of ocular disease.

K. Delegating prescriptive signing authority for either prescriptive medications or controlled dangerous substances to another person.

16.16.21.11 DISCIPLINARY PROCEEDINGS FOR UNLICENSED ACTIVITY: In accordance with the Uniform Licensing Act, Section 61-1-3.2, NMSA 1978 (2003 Repl. Pamp), a person who is not licensed to engage in the practice of optometry by the board is subject to disciplinary actions and proceedings by the board if it is determined that he or she has been practicing optometry in New Mexico without a valid New Mexico license.

A. The board may impose a civil penalty in an amount not to exceed $1,000 against a person who engages in the practice of optometry without a valid New Mexico license.

B. In addition, the board may assess the person, company, firm, or entity engaging in the unlicensed practice of optometry the administrative costs, including investigative costs and the costs of conducting a hearing.

C. Reports of unlicensed practice of optometry may be reported for investigation to the board by phone, fax, mail, or e-mail.


HISTORY of 16.16.21 NMAC:
Pre-NMAC History:
Material in the part was derived from that previously filed with the commission of public records - state records center and archives:
OEB 73-1, Rule No. 4 of the Administrative Rules and Regulations of the State Board of Examiners in Optometry, filed 10-18-73.
OPT Rule No. 4, Unprofessional Conduct, filed 8-21-80.
NMBO Rule 4, Board Rule No. 4 - Unprofessional Conduct, filed 7-22-92.
NMBO Rule 4, Board Rule No. 4 - Unprofessional Conduct, filed 5-25-94.

History of Repealed Material: [Reserved]

Other History:
16 NMAC 16.21, Unprofessional Conduct, filed 9-21-95, replaced that relevant portion of NMBO Rule 4 - Board Rule No. 4, Unprofessional Conduct.
16 NMAC 16.21, Unprofessional Conduct, filed 9-21-95, was renumbered and reformatted to 16.16.21 NMAC, Unprofessional Conduct, effective 03-15-2001.
16.16.22.1 ISSUING AGENCY: New Mexico Board of Optometry.

16.16.22.2 SCOPE: Part 22 of Chapter 16 applies to all license applicants or New Mexico licensed
optometrists.
[10-14-95; 16.16.22.2 NMAC - Rn, 16 NMAC 16.22.2, 03-15-2001]

16.16.22.3 STATUTORY AUTHORITY: Authority for Part 22 of Chapter 16 is the Optometry Act 1978
Section 61-2-6.D, Section 61-2-13, Section 61-2-14, Section 61-2-17 NMSA (1995 Repl. Pamp.) and the Uniform
Licensing Act, Sections 61-1-1 through 61-1-33 NMSA 1978 (1993 Repl. Pamp.).
[11-17-73; 3-31-91; 8-21-92; 6-24-94; 10-14-95; 16.16.22.3 NMAC - Rn, 16 NMAC 16.22.3, 03-15-2001]

16.16.22.4 DURATION: Permanent.
[10-14-95; 16.16.22.4 NMAC - Rn, 16 NMAC 16.22.4, 03-15-2001]

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

16.16.22.6 OBJECTIVE: The objective of Part 22 of Chapter 16 is to set forth the policies and procedures
for processing complaints submitted to the board against licensees and for instituting disciplinary actions against
applicants and licensees.
[10-14-95; 16.16.22.6 NMAC - Rn, 16 NMAC 16.22.6, 03-15-2001]

16.16.22.7 DEFINITIONS: For the purposes of this rule:
A. “Complaint” means a complaint filed with the board against an applicant for licensure or against
a licensee.
B. “Complainant” means the party who files a complaint against a licensee or against an applicant
for licensure.
C. “Respondent” means the licensure applicant or the licensee who is the subject of the complaint
filed with the board.
D. “Hearing” means the formal process whereby the respondent is afforded the opportunity to be
heard by the board or its designated hearing officer before the board takes action which might result in disciplinary
action against the respondent's application for licensure or his or her license to practice optometry.
E. “Must” means required.
F. “Violation of practice” means a violation of the New Mexico Optometry Act or the rules and
regulations duly adopted by the board.
G. “Notice of contemplated action” or “NCA” means the administrative process provided for by
the Uniform Licensing Act whereby the respondent is notified of the board’s intent to take action based upon the
violations of practice charged in the subject complaint, and whereby the respondent is afforded the opportunity for a
hearing before the board.
H. “Shall” means mandatory; a requirement.
I. “Should,” means a suggestion or recommendation; not a requirement.
J. “License revocation” means to prohibit the conduct authorized by the license.
K. “License suspension” means to prohibit, for a stated period of time, the conduct authorized by the
license.
L. “License restriction” means to restrict or condition the license as to the scope of practice, place
of practice, supervision of practice, duration of the licensed status, or other condition as deemed appropriate by the
board as a disciplinary measure in connection with a formal disciplinary action.
M. “Redacted” means the act or process of editing or revising the complaint so that the parties that
are the subject of the complaint are unknown to the board.
N. “Pre-NCA agreement” means an agreement reached between the board and the respondent as an
option to the formal NCA and hearing administrative hearing process.
O. “Mediation agreement” means an agreement reached through mediation between the board and the respondent as an option to the formal NCA and formal administrative hearing process.

16.16.22.8 DISCIPLINARY PROCEEDINGS: An investigation may be instituted by the board upon the receipt of a written complaint filed by any person, including any member of the board.

A. Written Complaint Required. A complaint filed with the board will be received by the board administrator who will process the complaint and determine how the complaint will be handled.

(1) In cases where it is clearly evident that the complaint does not fall within the board’s statutory authority or jurisdiction, the board administrator will not process the complaint and will inform the complainant of the reasons.

(2) If the complaint appears to contain violations of the board’s statute or its rules and regulations, or if the complaint is not a complicated one, the administrator may present the processed complaint to the entire board in a redacted form.

(3) If the complaint is lengthy, or if it is unclear or questionable as to whether there may have been violations of the board’s statute or its rules and regulations, the administrator shall refer it to the board’s standards of practice committee for review and consideration.

(4) The board may provide the respondent with a copy of the complaint and allow a reasonable time for the respondent to reply to the allegations in the complaint.

(5) The foregoing notwithstanding, the board will not be required to provide the respondent with a notice of the complaint filing, or a copy of the complaint, or any related investigatory evidence prior to the notice of contemplated action if it is determined that disclosure may impair, impede, or compromise the efficacy or integrity of an investigation into the matter.

B. Standards of practice committee appointed. On an annual basis, the board chairperson shall appoint a member or members of the board to a standards of practice committee.

(1) The standards of practice committee shall review all documentation referred to it by the board administrator regarding a subject complaint.

(2) The standards of practice committee may employ an investigator or other persons determined to be necessary in order to assist in the processing and investigation of the complaint.

(a) The standards of practice committee may be authorized by the board to employ such persons without prior approval of the full board.

(b) In such cases, the board administrator will contract for any such required services once budgetary availability is determined.

(3) Upon completion of its investigation the standards of practice committee shall present a summary of the subject complaint to the board with proposed recommendations concerning the proper disposition of the subject complaint.

(4) Upon review, the board shall vote upon the proposed recommendations and either uphold, reverse, or modify the standards of practice committee's recommendations.

(5) The standards of practice committee with the assistance of board counsel may draw up a pre-NCA settlement or mediation agreement proposal with the respondent as a means of resolving the complaint and enter into a proposed settlement agreement with the respondent as a means of resolving a complaint without having to go through the NCA and formal hearing process. However, final approval of the settlement or mediation agreement must be made by the full board prior to execution of the agreement.

C. Standards of practice committee recused from participation in further action: Members of the standards of practice committee who participate in the preparation of recommendations on complaints shall not participate further in any actions initiated by the board against the applicant or the licensee(s) who is the subject of the complaint.

D. Board action: In accordance with those provisions contained within the Uniform Licensing Act, the board may refuse to issue, suspend, or revoke any license upon finding, after a hearing, that the licensee or applicant for licensure has violated those provisions as set forth in Section 61-2-13 of the Optometry Act or those provisions found to constitute unprofessional conduct under Part 21 of the board rules and regulations (16.16 NMAC).

(1) If the board determines that it lacks jurisdiction, or that there is insufficient evidence or cause to issue a notice of contemplated action, the board may vote to dismiss or close the complaint.

(2) If the board determines that there is sufficient evidence or cause to issue a notice of contemplated action, it may vote to refer the complaint to the attorney general’s office for possible prosecution in
accordance with the provisions contained in the Uniform Licensing Act.

(3) The board may take any other action with regard to a complaint which is within its
authority and which is within the law, including referring the complaint to the attorney general and/or the district
attorney for prosecution of persons alleged to be practicing without a valid license.

(4) [RESERVED]

(5) Prehearing motions: The board may appoint a hearing or presiding officer to decide
non-dispositive motions filed prior to a hearing.

(6) [RESERVED]

(7) Settlement agreements: Following the issuance of a notice of contemplated action, the
board may enter into a settlement or mediation agreement with the respondent as a means of resolving a complaint.

(8) Settlement officer: To facilitate approval of settlement agreements at times when it is
not feasible to convene a full board meeting, the board may designate one of its members as a “settlement officer”,
and authorize that member to approve settlements in appropriate cases.

E. Costs of disciplinary proceedings: Licensees shall bear all costs of disciplinary proceedings
unless they are excused by the board from paying all or part of the fees, or if they prevail at the hearing and an
action specified in Section 61-1-3 of the Uniform Licensing Act is not taken by the board.

F. Private cause of action: Neither the action nor inaction of the board on any complaint shall
preclude the initiation of any private cause of action by the complainant.

G. License returned to the board: The wall license, renewal license, and therapeutic certificates
issued by the board must be returned to the board subsequent to disciplinary revocation or suspension. The wall
license, renewal license, and therapeutic certificates must be returned to the board in person or by registered mail no
later than 20 days after the suspension or revocation order by the board.

H. ULA protection from liability for complainant: There shall be no liability on the part of, and no
action for damages against, a person who provides information to the board in good faith and without malice in the
reasonable belief that such information is accurate. A licensee who directly or through an agent intimidates,
threatens, injures or takes any adverse action against a person for providing information to the board shall be subject
to disciplinary action.

I. Federal fraud and abuse databank: In accordance with federal requirements imposed by the
enactment of the Health Insurance Portability and Accountability Act of 1996, also known as the Kassebaum-
Kennedy bill, the board shall report any final adverse actions taken against a licensee to the federal fraud and abuse
databank established under that act.

(1) The board may report to the databank disciplinary actions taken by the board that do not
contain an admission or finding of guilt or liability against applicants or licensees.

(2) The board must report to the databank disciplinary actions taken by the board that do
contain an admission or finding of guilt or liability against applicants or licensees.

J. National optometric database: All final adverse actions shall also be reported by the board to the
association of regulatory boards of optometry (ARBO) national optometric database (NODB).

(1) The board may report to the databank disciplinary actions taken by the board that do not
contain an admission or finding of guilt or liability against applicants or licensees.

(2) The board must report to the databank disciplinary actions taken by the board that do
contain an admission or finding of guilt or liability against applicants or licensees.


HISTORY of 16.16.22 NMAC:
Pre-NMAC History:
Material in the part was derived from that previously filed with the commission of public records - state records
center and archives:
NMBO Rule 22, Board Rule No. 22 - Disciplinary Proceedings, filed 7-22-92.

History of Repealed Material: [Reserved]

Other History:
16 NMAC 16.22, Disciplinary Proceedings, filed 9-21-95, replaced that relevant portion of NMBO Rule 22 - Board
Rule No. 22, Disciplinary Proceedings.
16 NMAC 16.22, Disciplinary Proceedings, filed 9-21-95, was renumbered and reformatted to 16.16.22,
16.16.23.1 ISSUING AGENCY: New Mexico Board of Optometry.
[10-14-95; 16.16.23.1 NMAC - Rn, 16 NMAC 16.23.1, 03-15-2001; A, 07-06-2012]

16.16.23.2 SCOPE: Part 23 of Chapter 16 applies to all applicants for licensure and all optometrists licensed by the Board.
[10-14-95; 16.16.23.2 NMAC - Rn, 16 NMAC 16.23.2, 03-15-2001]

16.16.23.3 STATUTORY AUTHORITY: The authority for Part 23 of Chapter 16 is the Parental Responsibility Act (Ch. 25, Laws of 1995).
[10-14-95; 16.16.23.3 NMAC - Rn, 16 NMAC 16.23.3, 03-15-2001]

16.16.23.4 DURATION: Permanent.
[10-14-95; 16.16.23.4 NMAC - Rn, 16 NMAC 16.23.4, 03-15-2001]

16.16.23.5 EFFECTIVE DATE: October 14, 1995, unless a later date is cited at the end of a section.
[10-14-95; 16.16.23.5 NMAC - Rn, 16 NMAC 16.23.5, 03-15-2001; A, 07-06-2012]

16.16.23.6 OBJECTIVE: The objective of Part 23 of Chapter 16 is to set forth the policies, procedures, and disciplinary proceedings for implementation of the Parental Responsibility Act (Ch. 25, Laws of 1995).
[10-14-95; 16.16.23.6 NMAC - Rn, 16 NMAC 16.23.6, 03-15-2001]

16.16.23.7 DEFINITIONS: All terms defined in the Parental Responsibility Act shall have the same meanings in this section. As used in this section:
A. “HSD” means the New Mexico human services department;
B. “Statement of compliance” means a certified statement from HSD stating that an applicant or licensee is in compliance with a judgment and order for support; and
C. “Statement of non-compliance” means a certified statement from HSD stating that an applicant or licensee is not in compliance with a judgment and an order for support.
[10-14-95; 16.16.23.7 NMAC - Rn, 16 NMAC 16.23.7, 03-15-2001]

16.16.23.8 DISCIPLINARY ACTION: If an applicant or licensee is not in compliance with a judgment and order for support, the board:
A. shall deny an application for a license;
B. shall deny the renewal of license; and
C. has grounds for suspension or revocation of the license.
[10-14-95; 16.16.23.8 NMAC - Rn, 16 NMAC 16.23.8, 03-15-2001]

16.16.23.9 CERTIFIED LIST: Upon receipt of HSD's certified list of obligors not in compliance with a judgment and order for support, the board shall match the certified list against the current list of board licensees and applicants.
A. Upon the later receipt of an application for license or renewal, the board shall match the applicant against the current certified list.
B. By the end of the month in which the certified list is received, the board shall report to HSD the names of board applicants and licensees who are on the certified list and the action the board has taken in connection with such applicants and licensees.
[10-14-95; 16.16.23.9 NMAC - Rn, 16 NMAC 16.23.9, 03-15-2001]

16.16.23.10 INITIAL ACTION: Upon determination that an applicant or licensee appears on the certified list, the board shall:
A. commence a formal proceeding under 16.16.23.11 NMAC to take the appropriate action under 16.16.23.8 NMAC; (or
B. for current licensees only, informally notify the licensee that the licensee's name is on the certified
list, and that the licensee must provide the board with a subsequent statement of compliance from HSD by the earlier of the application for license renewal or a specified date not to exceed 30 days. If the licensee fails to provide this statement, the board shall commence a formal proceeding under 16.16.23.11 NMAC.


16.16.23.11 NOTICE OF CONTEMPLATED ACTION: Prior to taking any action specified in Part 23.8 of 16 NMAC 16, the board shall serve upon the applicant or licensee a written notice stating that:

A. the board has grounds to take such action, and that the board shall take such action unless the licensee or applicant:
   (1) mails a letter (certified mail return receipt requested) within 20 days after service of the notice requesting a hearing; or
   (2) provides the board, within 30 days of the date of the notice, with a statement of compliance from HSD; and

B. if the applicant or licensee disagrees with the determination of non-compliance, or wishes to come into compliance, the applicant or licensee should contact the HSD child support enforcement division.

[10-14-95; 16.16.23.11 NMAC - Rn, 16. NMAC 16.23.11, 03-15-2001]

16.16.23.12 EVIDENCE AND PROOF: In any hearing under this rule, relevant evidence is limited to the following:

A. A statement of non-compliance is conclusive evidence that requires the board to take the appropriate action under 16.16.23.8 NMAC, unless:

B. The applicant or licensee provides the board with a subsequent statement of compliance which shall preclude the board from taking any action under this rule.


16.16.23.13 ORDER: When a disciplinary action is taken under this section solely because the applicant or licensee is not in compliance with a judgment and order for support, the order shall state that the application or license shall be reinstated upon presentation of a subsequent statement of compliance. The board may also include any other conditions necessary to comply with board requirements for reapplications or reinstatement of lapsed licenses.


16.16.23.14 PROCEDURES: Proceedings under this rule shall be governed by the Uniform Licensing Act.


HISTORY of 16.16.23 NMAC:
Pre-NMAC History:  None.

History of Repealed Material:  [Reserved]

Other History:
ISSUING AGENCY: New Mexico Board of Optometry.

SCOPE: The provisions in PART 24 of Chapter 16 apply to any person governed by the Optometry Act who may be subject to investigation and disciplinary action for excessive use or abuse of intoxicants or drugs.

STATUTORY AUTHORITY: PART 24 of Chapter 16 is promulgated pursuant to the Optometry Act, Section 61-2-1 through Section 61-2-18 NMSA 1978 (1997 Repl. Pamp.); the Uniform Licensing Act, Section 61-1-1 through Section 61-1-33 NMSA 1978 (1996 Repl. Pamp.); and the Impaired Health Care Provider Act, Section 61-7-1 through Section 61-7-12 NMSA 1978 (1995 Repl. Pamp.).

DURATION: Permanent.

EFFECTIVE DATE: February 15, 1999, unless a later date is cited at the end of a section.

OBJECTIVE: The objective of Part 24 of Chapter 16 is to set forth policies and guidelines for disciplinary action when evidence or allegations of a mental disorder or illness, abuse of intoxicants or drugs by a licensed optometrist have been presented to the board.

DEFINITIONS: For the purposes of this rule:
A. “Impaired Health Care Provider Act” refers to Section 61-7-1 through Section 61-7-12 NMSA 1978 (1995 Repl. Pamp.).
B. “Controlled Substances Act” refers to Section 30-31-1 through Section 30-31-42 NMSA 1978.
C. “Impaired practitioner” means any health care provider unable to practice with reasonable skill or safety to patients by reason of one or more of the following: mental disorder or illness; physical illness, including but not limited to deterioration through the aging process or loss of motor skill; or habitual or excessive use of alcohol or abuse of drugs, as defined in the Controlled Substances Act.

EXCESSIVE OR HABITUAL USE OR ABUSE OF INTOXICANTS OR DRUGS: In cases where the Board has reasonable cause to believe that a licensed optometrist has a mental disorder or illness or is engaging in the excessive or habitual use or abuse of intoxicants or drugs, as defined in the Controlled Substances Act, and that such activity may compromise the licensee’s ability to practice optometry with reasonable skill and safety to patients, the Board shall conduct an investigation into the matter in accordance with the provisions established in the Impaired Health Care Provider Act.

EXAMINING COMMITTEE DESIGNATED: The board shall designate three licensed optometrists as members of an “examining committee” to examine the optometrist believed to be impaired either as a result of a mental disorder or illness or by the excessive or habitual use or abuse of intoxicants or drugs.

EXAMINATION CONDUCTED BY EXAMINING COMMITTEE: In accordance with the provisions in the Impaired Health Care Provider Act, the examining committee shall order and conduct an examination and may require a physical or psychiatric examination or drug test of the licensee to determine his or
her fitness to practice optometry with reasonable skill or safety to patients, either on a restricted or unrestricted basis.


16.16.24.11 PHYSICAL EXAM OR DRUG TEST ORDERED: A licensed professional designated by the board shall perform the physical or psychiatric examination and/or drug test ordered by the examination committee. The cost of said examination or test shall be borne by the optometrist who is the subject of the examination.


16.16.24.12 EXAMINING COMMITTEE REPORT:

A. The examining committee shall report its findings on the examination and make recommendation to the board.

B. Recommendations made to the board by the examining committee shall be advisory only and shall not be binding on the board.


16.16.24.13 RESULTS ADMISSIBLE: The results of the examining committee’s findings and the physical or psychiatric exam and/or drug test shall be admissible in any subsequent review or hearing by the board, notwithstanding any claim of privilege under a contrary rule or law or statute.


16.16.24.14 [RESERVED]

16.16.24.15 FAILURE OR REFUSAL TO SUBMIT TO EXAMINATION: Failure or refusal by the optometrist to comply with an examining committee order to appear before it for examination, or to submit to a physical or psychiatric examination or drug test pursuant to the Impaired Health Care Provider Act, shall be grounds for immediate and summary suspension of the license by the board until further order by the board.


16.16.24.16 ACTION ON EXAMINATION COMMITTEE REPORT: The board may accept or reject any finding, determination, or recommendation made by the examining committee to the board regarding the licensee’s ability to continue to practice with or without restriction on the license, or the board may refer the matter back to the examination committee for further examination and report, or it may decide that formal disciplinary action is immediately warranted.


16.16.24.17 [RESERVED]

16.16.24.18 ENTITLEMENT TO HEARING: Before the board can take action to restrict, suspend, or revoke the optometrist’s license on the evidence reported by the examining committee, the optometrist shall be entitled to a hearing under, and in accordance with, the procedures contained in the Impaired Health Care Provider Act and the Uniform Licensing Act.


16.16.24.19 [RESERVED]

16.16.24.20 REQUEST FOR VOLUNTARY RESTRICTION OF THE PERMIT OR LICENSE: In lieu of a formal hearing, the optometrist may voluntarily request, in writing, a restriction of the license to practice optometry.

A. The board may grant the request for restriction and shall have authority, if it deems appropriate, to attach conditions to the optometrist’s license to practice within specified limitations.

B. Upon imposition of voluntary restrictions on the optometrist’s license, the board shall have the authority, if it deems appropriate, to waive the commencement of any further disciplinary proceedings conducted in accordance with the Uniform Licensing Act.

16.16.24.21 PETITION FOR REMOVAL OF VOLUNTARY RESTRICTION: The optometrist shall have a right, at reasonable intervals after a year, to petition the board, in writing, for the removal of the voluntary restriction and to demonstrate that he or she is capable of resuming the competent practice of optometry with reasonable skill and safety to patients.
   A. The board shall act on the petition by referring it to the examining committee, who shall conduct the necessary examination of the optometrist, and make written recommendation to the board.
   B. Upon consideration of the examining committee’s recommendation, the board may, in its discretion, remove the voluntary restriction on the optometrist’s license.

16.16.24.22 ABSENCE OF A VOLUNTARY REQUEST FOR RESTRICTION: In the absence of a request by the optometrist for voluntary restriction of his or her license as provided in Section 20 of 16.16.24 NMAC (this rule), the board may, in its discretion, initiate proceedings for the restriction, suspension, or revocation of the optometrist’s license in accordance with the Impaired Health Care Provider Act and the Uniform Licensing Act.

16.16.24.23 TEMPORARY SUSPENSION:
   A. The board may temporarily suspend the optometrist’s license without a hearing, simultaneously with the institution of proceedings under the Impaired Health Care Provider Act or the Uniform Licensing Act, if it finds that the evidence in support of the examining committee’s determination is clear and convincing and that the optometrist’s continuation in practice would constitute an imminent danger to the health and safety of the public.
   B. The optometrist shall be entitled to a hearing to set aside the suspension no later than 60 days after the license is suspended.

16.16.24.24 PETITION FOR REINSTATEMENT, RESTORATION, OR MODIFICATION OF DISCIPLINARY ORDER: Subsequent to formal proceedings under the Impaired Health Care Provider Act and the Uniform Licensing Act, any optometrist who is prohibited from practicing optometry may, after a year from the date of suspension or revocation of the license, petition the board for reinstatement or restoration of his or her license to practice or for modification of the final disciplinary orders.
   A. The optometrist shall make the application for reinstatement or restoration of his or her license or for the modification of the disciplinary orders in writing.
   B. The optometrist shall be afforded an opportunity to demonstrate that he or she can resume the practice of optometry with reasonable skill, competence, and safety to patients and shall be required to provide verifiable proof of compliance with any stipulations in the disciplinary order.
    (1) The board may require an examination by the examining committee for such reinstatement, restoration, or modification of the optometrist’s license.
    (2) The board may require verification that the optometrist has completed a treatment program for alcohol or chemical dependency.
    (3) The board may require verifiable proof that the optometrist has remained abstinent from alcohol or chemical dependence, except for drugs prescribed by a licensed physician for a legitimate medical condition, for a minimum of at least one year.
    (4) The board may require verifiable proof that optometrist has maintained active and uninterrupted participation in a program of aftercare which provides for periodic monitoring and supervision by appropriately trained personnel, and which includes random and unannounced drug and/or alcohol screening of urine or blood.
    (5) The board shall have the discretion to accept or reject the petition for reinstatement or restoration of the optometrist’s license, or for modification of the disciplinary orders.

HISTORY of 16.16.24 NMAC:
Pre-NMAC History: None.

History of Repealed Material: [Reserved]
Other History:
16.16.25.1 ISSUING AGENCY: New Mexico Board of Optometry.
[16.16.25.1 NMAC - N, 04-24-2014]

16.16.25.2 SCOPE: Part 25 of Chapter 16 sets forth application procedures to expedite licensure for military service members, their spouses and veterans.
[16.16.25.2 NMAC - N, 04-24-2014]

16.16.25.3 STATUTORY AUTHORITY: Part 25 of Chapter 16 is promulgated pursuant to and in accordance with the Optometry Act, Sections 61-2-1 to -18 NMSA 1978 (specific authority to promulgate rules is 61-2-6(D)(2) and, Section 61-1-34 NMSA 1978.
[16.16.25.3 NMAC - N, 04-24-2014]

16.16.25.4 DURATION: Permanent.
[16.16.25.4 NMAC - N, 04-24-2014]

16.16.25.5 EFFECTIVE DATE: April 24, 2014, unless a later date is cited at the end of a section.
[16.16.25.5 NMAC - N, 04-24-2014]

16.16.25.6 OBJECTIVE: The objective of Part 25 of Chapter 16 is to expedite licensure for military service members, their spouses and veterans pursuant to Section 61-1-34 NMSA 1978.
[16.16.25.6 NMAC - N, 04-24-2014]

16.16.25.7 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.
[16.16.25.7 NMAC - N, 04-24-2014]

16.16.25.8 APPLICATION REQUIREMENTS:
A. Applications for registration shall be completed on a form provided by the board.
B. The applicant shall provide:
   (1) a completed application and corresponding fee pursuant to 16.16.6 NMAC and 16.16.4 NMAC;
   (2) satisfactory evidence that the applicant is currently licensed in another jurisdiction, including a branch of armed forces of the United States, and holds a current license in good standing; the applicant further must provide satisfactory evidence that he has met the minimal licensing requirements in that jurisdiction and that they are substantially equivalent to the licensing requirements for New Mexico licensees in optometry; and
   (3) proof of honorable discharge (DD214), military ID card, or accepted proof of military spouse status.
[16.16.25.8 NMAC - N, 04-24-2014]

16.16.25.9 LICENSE RENEWAL:
A. A license issued pursuant to this section shall not be renewed until the licensee satisfies the requirements for issuance of a license set forth in 16.16.6 NMAC and for the renewal of a license set forth in 16.16.10 NMAC.
B. A license issued pursuant to this section shall be valid for one year or until July 1, whichever comes first.
C. 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.
D. The renewal application will be available online at the board’s website at www.optometrybd@state.nm.us. For an additional fee, paper applications may be requested in person or by telephoning the board office at 505-476-4622.

E. To renew a license, the licensee must submit a completed license renewal application, verification of continuing education, a current CPR certification and the applicable fee at time of renewal. The licensee shall also submit proof of passing NBEO parts I, II, and III and must pass the New Mexico optometry board exam at its next regularly scheduled examination date. All New Mexico licensed optometrists must comply with the provisions of 16.16.7 NMAC and 16.16.8 NMAC, to be certified and qualified to dispense and prescribe controlled dangerous substances, and must have first registered with the board of pharmacy and the United States drug enforcement administration (DEA) to obtain the proper DEA registration.

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

HISTORY OF 16.16.25 NMAC: [RESERVED]