

PUBLIC RULE HEARING

The New Mexico Board of Nursing (NMBON) will hold a Rules Hearing on Thursday, March 1, 2018. The Rules Hearing will begin at 9:00 a.m. The Rules Hearing will be held at The Cottonwood at the Hyatt Regency Tamaya Resort and Spa, located at 1300 Tuyuna Trail, Santa Ana Pueblo, NM 87004.

Statutory authority for this rulemaking can be found in Section 61-3-10 et seq. NMSA 1978.

The purpose of the Rules Hearing is to hear public testimony and comments regarding the proposed amendments to the Board's rules and regulations:

Title 16 Occupational and Professional Licensing, Chapter 12 Nursing and Health Care Related Providers - Part 2 Nurse Licensure

Title 16 Occupational and Professional Licensing, Chapter 12 Nursing and Health Care Related Providers - Part 9 Management of Chronic Pain with Controlled Substances.

No specific technical information serves as a basis for this proposed rule.

The proposed rule changes to Title 16 Occupational and Professional Licensing, Chapter 12 Nursing and Health Care Related Providers - Part 2 Nurse Licensure amend the language of the regulation as follows:

- (1) to alter the NCLEX attempt limits for individuals desiring licensure through examination in New Mexico from eight (8) times in two (2) years to three (3) times in three (3) years, and eliminating the option of completing a remediation plan;
- (2) to add language defining the registered nurse's role and responsibilities during the administration of medication for the purposes of procedural sedation and analgesia; and
- (3) to clarify the continuing education requirements for advanced practice nurses around non-cancer pain management to allow for the inclusion of educational offerings that include non-pharmacological modalities.

The proposed rule changes to Title 16 Occupational and Professional Licensing, Chapter 12 Nursing and Health Care Related Providers - Part 9 Management of Chronic Pain with Controlled Substances amends the language of the regulation to broaden the continuing education requirements around non-cancer pain management to include the option of non-pharmacological modalities.

Persons desiring to view the proposed amendments to the rules may download them from <http://nmbon.sks.com/rule-changes.aspx>. If you do not have internet access, a copy of the proposed rules may be requested by contacting the NMBON at (505) 841-9094.

Written comments may be submitted via email to BON.Legal@state.nm.us. If submitting comments via email, specify in the subject line the following: NMBON Public Comments. Written comments may also be filed by sending original, signed copies to:

New Mexico Board of Nursing
ATTN: NMBON Public Comments
6301 Indian School Road, NE, Suite 710
Albuquerque, NM 87110

Persons wishing to submit written comments regarding the proposed rules should submit them to the Board office no later than Thursday, February 22, 2018. Written comments will be given the same consideration as oral testimony made at the public hearing. All written comments must be received no later than 5:00 p.m. MST, February 22, 2018.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact the NMBON at (505) 841-9094. The NMBON requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 12 NURSING AND HEALTH CARE RELATED PROVIDERS
PART 2 NURSE LICENSURE

16.12.2.1 ISSUING AGENCY: New Mexico Board of Nursing.
[16.12.2.1 NMAC - Rp, 16.12.2.1 NMAC, 10/1/2016]

16.12.2.2 SCOPE: This rule applies to all nurses licensed in New Mexico and all nurses not licensed in this state whose home state is not New Mexico and who wish to practice in New Mexico pursuant to a multi-state license privilege as provided in the nurse licensure compact.
[16.12.2.2 NMAC - Rp, 16.12.2.2 NMAC, 10/1/2016]

16.12.2.3 STATUTORY AUTHORITY: Section 61-3-1 NMSA 1978 authorized the board of nursing to regulate the practice of nursing in the state.
[16.12.2.3 NMAC - Rp, 16.12.2.3 NMAC, 10/1/2016]

16.12.2.4 DURATION: Permanent.
[16.12.2.4 NMAC - Rp, 16.12.2.4 NMAC, 10/1/2016]

16.12.2.5 EFFECTIVE DATE: October 1, 2016, unless a later date is cited at the end of a section.
[16.12.2.5 NMAC - Rp, 16.12.2.5 NMAC, 10/1/2016]

16.12.2.6 OBJECTIVES: To promote, preserve and protect the public health, safety and welfare of the citizens of the state of New Mexico.
[16.12.2.6 NMAC - Rp, 16.12.2.6 NMAC, 10/1/2016]

16.12.2.7 DEFINITIONS:

A. Definitions beginning with the letter A:

(1) **“actually engaged in nursing”**, employed, engaged, or holding a position which requires licensure or in which the maintenance of licensure as a nurse is expected;

(2) **“administration of medications”**, a process whereby a prescribed drug or biological agent is given to a patient/client by a person licensed or certified by the board to administer medications;

(3) **“advanced practice registered nurse” (APRN)**, a graduate level prepared registered nurse who has completed a program of study in a specialty area in an accredited nursing program, taken a certification examination in the same area, and been granted a license to practice as an advanced practice nurse with an expanded scope of practice; individuals are authorized to practice in the roles of certified nurse practitioner (CNP), certified registered nurse anesthetist (CRNA) and clinical nurse specialist (CNS);

(4) **“affidavit”**, a sworn written statement made to affirm a statement of fact;

(5) **“anesthetics”**, means a drug-induced loss of consciousness, otherwise known as general anesthesia, during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory support is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired. General anesthesia is used for those procedures when loss of consciousness is required for the safe and effective delivery of surgical services.

(6) **“approval”**, the review and acceptance of a specific activity;

(7) **“approval agency”**, agency, institution or organization with the authorization to award CE credit;

(8) **“approved equivalent”**, a program reviewed and accepted by the board of nursing as meeting necessary regulatory/statutory requirements;

(9) **“assessment”**, the review and interpretation by a licensed individual of specific data necessary to determine the patient/client’s care and treatment needs; (also see data collection);

(10) **“assignment of nursing activity”**, assignment of nursing activity involves appointing or designating another licensed nurse or assistive personnel that is consistent with his/her scope of practice (licensed person) or role description (unlicensed person);

(11) **“audit”**, an examination and verification of CE and practice documents.

B. Definitions beginning with the letter B:

- (1) **“basic nursing education”**, the scholastic route to initial licensure;
- (2) **“board”**, the New Mexico board of nursing.

C. Definitions beginning with the letter C:

- (1) **“certificate”**, a legal document granting permission to an unlicensed person to perform specific functions generally considered the practice of nursing under the direction of a licensed nurse;
- (2) **“certification re-activation”**, the process of reactivating a lapsed national advanced practice registered nurse certification program in the specialty area;
- (3) **“collaboration”**, practice in conjunction with another health professional;
- (4) **“competency”**, competency in nursing is the ability to perform skillfully and proficiently the role of the licensee; the role encompasses essential knowledge, judgment, attitudes, values, skills and abilities, which are varied in range and complexity; competency is a dynamic concept and is based on educational training, preparation, and expertise;
- (5) **“consultation”**, to communicate regularly to set goals and objectives and to review and document outcomes;
- (6) **“contact hours”**, a unit of measurement to describe an approved, organized learning experience;
- (7) **“continuing education”**, planned learning experiences beyond a basic nursing education program; these experiences are designed to promote the development of knowledge, skills and attitudes for the enhancement of nursing practice, thus improving health care to the public;
- (8) **“continuing education unit (CEU)”**, ten contact hours of participation in an organized CE experience under responsible sponsorship, capable direction, and qualified instruction.

D. Definitions beginning with the letter D:

- (1) **“data collection”**, the process of obtaining information, material, fact or clinical observations which will be used in the assessment process; data collection is not limited to licensed individuals;
- (2) **“delegation”**, the transferring to a competent individual the authority to perform a selected nursing task in a selected situation. The nurse retains accountability of the delegation;
- (3) **“department of public safety”**, the New Mexico department of public safety or other state’s department of public safety;
- (4) **“direct supervision for graduate permit holders”**, at a minimum, the person responsible for the direct supervision must be in the facility or on the unit with the graduate permit holder observing, directing and evaluating the performance of the permit holder; the supervisor must not be engaged in other activities that would prevent them from providing direct supervision.

E. Definitions beginning with the letter E:

- (1) **“educational institution”**, refers to an institution within the educational system which is organized and accredited for teaching and study (university, high school, post-secondary, approved area vocational institution);
- (2) **“eligible for graduation”**, individual who has met all the requirements of an educational program.

F. “Final transcript”, an official record of course work and grades, issued by a school, which indicates date of program completion and certificate or degree awarded.

G. “Generally recognized organization”, an association of nurses with common goals and concerns expressed through structured by laws. Rules and regulations, and whose recognition derives from both the profession and the public.

H. “Health care work force data collection”, an electronic survey, designed to be completed by applicants for licensure or renewal, which includes questions regarding a core essential data set.

I. Definitions beginning with the letter I:

- (1) **“inactive list”**, compilation of those licenses that are in good standing but not current;
- (2) **“initial license”**, the process of achieving the legal privilege to practice within a professional category upon the completion of all educational requirements and the successful writing of the national licensing examination;
- (3) **“institution of higher education”**, college or university.

J. “Jurisdiction”, the licensure or regulatory authoritative body for nursing within a specific geographic area for which there is endorsement in New Mexico.

K. Definitions beginning with the letter K: [Reserved]

L. Definitions beginning with the letter L:

- (1) **“lapsed status”**, a license which was not renewed by the expiration date on the license;

(2) **“legal guardian”**, a person lawfully invested with the power, and charged with the duty, of taking care of the person and managing the property and rights of another person who is considered incapable of administering his own affairs;

(3) **“letter of authorization”**, a document issued by the board which authorizes an individual to practice nursing in New Mexico under the auspices of an approved preceptorship for an advanced nursing expanded scope of practice prescriptive authority or for an advanced practice nurse from a compact state;

(4) **“license”**, a legal document granting an individual the privilege and authority to engage in the practice of an occupation/profession;

(5) **“licensure by endorsement”**, the process of achieving the legal privilege to practice within a professional category, in New Mexico, by individuals licensed in other jurisdictions, upon fulfilling all requirements set by this state.

M. Definitions beginning with the letter M:

(1) **“medical emergency”**, a situation resulting from a disaster in which the number of persons requiring nursing care exceeds the availability of New Mexico registered nurses or licensed practical nurses;

(2) **“monitoring system”**, a mechanism whereby programs may be approved for CE hours within a geographic area;

(3) **“must”**, a requirement.

N. Definitions beginning with the letter N:

(1) **“national licensing examination”**, examination for licensure as provided by the national council of state boards of nursing, inc.;

(2) **“nationwide criminal history record”**, information concerning a person’s arrests, indictments or other formal criminal charges and any dispositions arising there from, including convictions, dismissals, acquittals, sentencing and correctional supervision, collected by criminal justice agencies and stored in the computerized databases of the federal bureau of investigation, the national law enforcement telecommunications systems, the department of public safety or the repositories of criminal history information of other states;

(3) **“nationwide criminal history screening”**, a criminal history background investigation of an applicant for licensure by examination or endorsement through the use of fingerprints reviewed by the department of public safety and submitted to the federal bureau of investigation, resulting in the generation of a nationwide criminal history record for that applicant.

O. Definitions beginning with the letter O: [Reserved]

P. Definitions beginning with the letter P:

(1) **“permit-to-practice for GCNSs”**, a document conferring the privilege to practice as a graduate clinical nurse specialist, at a specific place of employment, under the direct supervision of a licensed CNS, CNP or physician; such permits will carry set expiration dates, are not renewable and are not transferable;

(2) **“permit-to-practice for GNs and GPNs”**, a document conferring the privilege to practice nursing at a specific place of employment, under direct supervision of a RN only; such permits will carry set expiration dates, are not renewable or transferable;

(3) **“permit-to-practice for GNPs”**, a document conferring the privilege to practice as a graduate nurse practitioner, at a specific place of employment, under the direct supervision of a physician or a certified nurse practitioner; direct supervision of a physician, licensed CNP or CNS is required for prescription writing; such permit will carry set expiration dates, are not renewable and are not transferable;

(4) **“permit-to-practice for GRNAs”**, a document conferring the privilege to administer anesthesia to any person, as a GRNA, at a specific place of employment, functioning in an interdependent role under the direction of and in collaboration with a licensed physician, osteopathic physician, dentist or podiatrist licensed in New Mexico; such permits will carry set expiration dates, and are not renewable or transferable;

(5) **“post-graduate program”**, any specialized knowledge and skills sought after completion of a basic nursing educational program which does not necessarily lead to an advanced degree;

(6) **“preceptor”**, an individual at or above the level of licensure that an assigned student is seeking, who may serve as a teacher, mentor, role model or supervisor in a clinical setting;

(7) **“prescriptive authority”**, the power to determine the need for drugs, immunizing agents or devices; selecting the remedy and writing a prescription;

(8) **“private practice”**, employment status of an individual nurse who is self-employed.

(9) **“procedural sedation”**, a technique of administering sedatives or dissociative agents with or without analgesics to induce a state that allows the patient to tolerate unpleasant procedures while maintaining cardio respiratory functions.

Q. Definitions beginning with the letter Q: [Reserved]

R. Definitions beginning with the letter R:

- (1) **“reactivation”**, the process of making current a license which has been in abeyance as a result of failure to comply with the necessary renewal requirements; this process does not involve board action at any juncture;
- (2) **“recognized national or state institutions/organizations”**, institutions and organizations recognized as providers of CE for nurses;
- (3) **“refresher course”**, a formal program that has both didactic and clinical components designed to prepare a nurse who has been out of practice to re-enter the profession;
- (4) **“reinstatement”**, the process whereby a license which has been subject to revocation or suspension, is returned to its former status by individual board action; this process always involves board action, and requires filing of a form and payment of the reinstatement fee;
- (5) **“relicensure”**, the process of renewal, reactivation or reinstatement of a New Mexico nursing license.

S. Definitions beginning with the letter S:

- (1) **“shall”**, mandatory; a requirement;
- (2) **“should”**, a suggestion or recommendation; not a requirement;
- (4) **“sponsor/provider”**, any person, organization, agency, or institution which organizes, develops, implements, and evaluates a CE activity;
- (5) **“state approved program”**, a basic nursing education program approved or accredited by a state board of nursing or a nationally recognized nursing education accreditation body;
- (6) **“supervision/direction”**, initial verification of a person’s knowledge and skills in the performance of a specific function or activity followed by periodic observation, direction and evaluation of that person’s knowledge and skills as related to the specific functions or activity;
- (7) **“surrogate”**, an individual, other than a patient’s agent or guardian, authorized under the uniform health-care decisions act to make a health-care decision for the patient.

T. “Temporary license”, a non-renewable, non-transferable document indicating a legal privilege to practice as a RN, LPN, CNP, CNS or CRNA, on a conditional basis for a specific period of time.

U. “Uniform Licensing Act”, New Mexico statute which provides procedures to be utilized in disciplinary proceedings.

V. “Valid practitioner-patient relationship” means a professional relationship between the practitioner and the patient for the purpose of maintaining the patient’s well-being. At minimum, this relationship is an interactive encounter between the practitioner and patient involving an appropriate history and physical or mental examination, ordering labs or diagnostic tests sufficient to make a diagnosis and providing, prescribing or recommending treatment, or referring to other health care providers. A patient record must be generated by the encounter.

[16.12.2.7 NMAC - Rp, 16.12.2.7 NMAC, 10/1/2016]

16.12.2.8 GLOSSARY OF ABBREVIATIONS:

- A.** APRN: Advanced practice registered nurse (i.e. CNP, CNS, CRNA).
- B.** CE: Continuing education.
- C.** CNP: Certified nurse practitioner.
- D.** CNS: Clinical nurse specialist.
- E.** COA: Council on accreditation of nurse anesthesia educational program.
- F.** CRNA: Certified registered nurse anesthetist.
- G.** DNP: Doctor of nursing practice.
- H.** GCNS: Graduate clinical nurse specialist.
- I.** GN: Graduate nurse.
- J.** GNP: Graduate nurse practitioner.
- K.** GPN: Graduate practical nurse
- L.** GRNA: Graduate registered nurse anesthetist.
- M.** LPN: Licensed practical nurse.
- N.** MN: Master’s in nursing.
- O.** MSN: Master of science in nursing.
- P.** NBCRNA: National board on certification & recertification of nurse anesthetists.
- Q.** NCLEX-RN/PN: National council licensing examination - RN/PN.
- R.** NCSBN: National council of state boards of nursing.

- S. NLNAC: National league for nursing accrediting commission.
- T. NMSA: New Mexico statutes annotated.
- U. NPA: Nursing Practice Act.
- V. RN: Registered nurse.
- W. ULA: Uniform Licensing Act of NM.

[16.12.2.8 NMAC - Rp, 16.12.2.8 NMAC, 10/1/2016]

16.12.2.9 FEES: Payment of fees will be accepted in the form specified by the board. The initial application fee will be for a period of one year, plus the months to the applicant's birth month. Fees may be collected in whole or prorated to commensurate with the length of the renewal period. Fees are not refundable.

A. Initial licensure by examination or endorsement:		
(1)	Licensed practical nurse (LPN)	\$150
(2)	Registered nurse (RN)	\$150
(3)	Advanced practice: CNP/CNS/CRNA	\$100
B. License Renewal:		
(1)	Licensed practical nurse (LPN)	\$110
(2)	Registered nurse (RN)	\$110
(3)	Advanced practice: CNP/CNS/CRNA	\$110
C. Inactive license renewal (late renewal, lapsed status, reactivation, reinstatement after board action) includes renewal fee:		
(1)	Licensed practical nurse (LPN)	\$200
(2)	Registered nurse (RN)	\$200
(3)	Advanced practice: CNP/CNS/CRNA	\$200
D. Other Fees:		
(1)	Re-exam LPN/RN	\$60
(2)	Temporary license LPN/RN	\$60
(3)	Temporary license CNP/CNS/CRNA	\$60
(4)	License verification	\$30
E. Nursing Lists:		
(1)	LPN/CNP/CNS/CRNA	\$100
(2)	RN	\$200
(3)	Specialty/customized	\$300

[16.12.2.9 NMAC - Rp, 16.12.2.9 NMAC, 10/1/2016; A, 9/12/2017]

16.12.2.10 LICENSURE REQUIREMENTS FOR REGISTERED AND PRACTICAL NURSES:

Licensure with the New Mexico board of nursing is mandatory and is the responsibility of the individual nurse, pursuant to the Nursing Practice Act. For states who are a part of the nurse licensure compact, licensure in New Mexico can only be issued to applicants who declare New Mexico as their primary state of residence.

- A. Prerequisites for licensure of RNs and LPNs by examination in New Mexico.**
 - (1) Completion of and eligible for graduation from a board approved course of study for the preparation of registered nurses or practical nurses, or an acceptable level of education as determined by the board or graduation from a program which is equivalent to an approved program of nursing in the United States:
 - (a) minimum acceptable level of education for LPN licensure by examination for candidates enrolled in RN programs with LPN programs embedded include:
 - (i) minimum of 500 hours, 250 didactic, 250 (clinical and lab) which includes the minimum as follows; OB/Peds - 30 hours didactic/40 hours clinical; medical-surgical - 60 hours didactic/ 90 hours clinical; pharmacology - 45 hours didactic; and psych - 60 contact hours;
 - (ii) LPN transition course approved by the New Mexico board of nursing.
 - (b) request to New Mexico board of nursing for LPN licensure examination by acceptable level of education from an approved program of nursing should include:
 - (i) transcripts with minimum of 500 hours in nursing education and proof of successful completion of board approved LPN transition course;
 - (ii) written communication from the director of the approved nursing program requesting permission for nursing students to test for LPN licensure.
 - (c) certification of eligibility for LPN licensure examination by students enrolled in a nursing program with a LPN track will need to include:

(i) transcripts with minimum of 500 hours in nursing education and board approved LPN transition course passed successfully on completion of board approved LPN transition course;
(ii) written communication from the director of the approved nursing program requesting permission for nursing students to test for LPN licensure.

(2) RN and PN graduates from non-U.S. nursing programs:

(a) shall have an evaluation of their nursing education credentials sent to the New Mexico board directly from a board recognized educational credentialing agency;

(i) the credentialing agency must be a member of a national credentialing organization and must be monitored by an external committee of credentialing experts and nursing educators;

(ii) the credentialing agency must demonstrate the ability to accurately analyze academic and licensure credentials in terms of U.S. comparability, with course-by-course analysis of nursing academic records;

(iii) the credentialing agency must manage the translation of original documents into English;

(iv) the credentialing agency will inform the board of nursing in the event of fraudulent documents;

(v) the credentials report must state the language of nursing instruction and language of textbooks for nursing education; and

(vi) the credentialing agency must only use original source documents in evaluating nursing education and must compare the foreign education to the U.S. education standards.

(b) Puerto Rico applicants who are graduates of National league for nursing accrediting commission (NLNAC) accredited registered nurse program are eligible to sit National council licensure examination for registered nurses (NCLEX-RN) exam;

(c) successful completion of any one of the approved English competency examinations with:

(i) a minimum score of 540 (207 on computerized version) on the test of English as a foreign language (TOEFL) or test of English as a foreign language - internet based test (TOEFL IBT) minimal passing standard of 84 overall, with a minimum speaking score of 26, a minimum score of 725 on test of English for international communication test of English for international communication (TOEIC) or a minimum score of 6.5 overall with a 7.0 on the spoken portion on the academic version of international English language testing system international English language testing system (IELTS);

(ii) completion of a nursing program given in English in another country;

(iii) a passing score on a nursing licensure examination which is given in English.

(3) Completion of the required board of nursing application for licensure by examination according to instructions and including the required fee.

(4) Completion of NCLEX application for the testing service according to instructions.

(5) Graduates who have compact state addresses or who declare another compact state as their state of residence on their application will have their application for examination, and appropriate fees returned to them.

(6) The board shall not approve an application for a license until the applicant provides the following information:

(a) demographics, including race, ethnicity and primary and other languages spoken;

(b) practice status, including but not limited to: active practices in New Mexico and other locations; practice type, practice settings, such as hospital, clinic or other clinical settings;

(c) education, training and primary and secondary specialties;

(d) average hours worked per week and the average number of weeks worked per year in the licensed profession;

(e) percentage of practice engaged in direct patient care and in other activities, such as teaching, research and administration in the licensed profession;

(f) practice plans for the next five years, including retiring from the health care profession, moving out of state or changing health care work hours.

B. Nationwide criminal background check. Applicants for licensure in New Mexico are subject to a state and national criminal background check at their cost.

- (1) Applicants will follow the criminal background check process required by the New Mexico department of public safety or its agent.
 - (2) Applications for exam or endorsement will not be processed without results of a criminal background check.
 - (3) If the criminal background check reveals a felony or violation of the Nursing Practice Act, the applicant/licensee will be notified to submit copies of legal documents and other related information to the board that will make the determination if the applicant is eligible for licensure or if disciplinary action will be taken.
- C.** Complete application for licensure by examination, certification of eligibility for graduation completed by nursing education program or official transcript, and an approved criminal background check must be received by the board office prior to being granted permission to take the national licensing examination (NCLEX). Certification of eligibility for graduation completed by nursing education program or official transcript, indicating date requirements for graduation from the nursing program were met and certificate or degree awarded must be received in the board office directly from the registrar's office.
- D.** Results of the examination shall be reported to the individual applicant within four weeks following the applicant's examination date. Examination results shall be released to the applicant's nursing program and boards of nursing unless otherwise instructed, in writing, by applicant.
- E.** An initial license shall be valid until the last day of the applicants' birth month after the first anniversary of the initial license.
- F.** Applications containing fraudulent or misrepresented information could be the basis for denial or revocation of licensure.
- G.** If the licensure process is not completed, the application becomes null and void six months after date of the application being received at the board.
- H.** Permits-to-practice may be issued for employment at a specific institution(s) in New Mexico. Permits-to-practice can be emailed, faxed or mailed directly to the New Mexico employing institution(s).
- (1) To be eligible for a permit-to-practice, the applicant must:
 - (a) complete the application process to take the NCLEX within 12 weeks of graduation; the permit to practice for RN and PN graduates of U.S. schools may be issued for a period not to exceed six months from the receipt date of application; permits to practice may not be issued by the New Mexico board of nursing for employment at specific institution(s) in compact states; permits-to-practice will not be issued for applicants who declare residency in other compact states;
 - (b) RN and PN graduates from non-U.S. nursing programs may be issued a permit-to-practice in New Mexico for a period not to exceed six months from the date of application when requirements are met according to Paragraph (2) of Subsection A of 16.12.2.10 NMAC;
 - (c) assure that prospective New Mexico employer(s) submit a letter of intent to employ to the board office, on agency letterhead, indicating the name of a specific New Mexico employer and name and nursing license number of the RN who is responsible for assuring direct supervision by a registered nurse;
 - (d) have an approved criminal background check results.
 - (2) Permits-to-practice cannot be transferred or renewed.
 - (3) Written notification from employer must be made to the board office in case of lost or stolen permit-to-practice.
 - (4) Permits-to-practice shall be valid until the examination results are disseminated but shall not exceed the expiration date on the permit.
 - (a) Applicants who fail the first or any subsequent examination shall not practice nursing until such time as the applicant passes a nursing licensing examination.
 - (b) Any applicant who is eligible to write the professional examination but elects to write the practical examination on the basis of practical nursing education equivalency and fails the practical examination shall not be granted graduate nurse status when the applicant applies to write the professional registered nurse examination.
 - (c) Any applicant who fails to appear for the first examination for which applicant is eligible shall not practice nursing until such time as the applicant passes a licensing examination.
 - (5) Candidates who were not successful on the *national licensure examination* will receive the results as soon as they are available.
 - (6) Applicants who hold a graduate permit-to-practice and do not become licensed prior to the expiration date of the permit may not continue to practice as a graduate nurse or graduate practical nurse.
- I.** Direct supervision for graduate permit holders:

- (1) at a minimum, the RN responsible for direct supervision must be in the facility or on the unit with the graduate;
- (2) the RN is responsible for observing, directing and evaluating the performance of the graduate;
- (3) the RN supervisor must not be engaged in other activities that would prevent them from providing direct supervision.

J. NCLEX attempt limits:

- (1) Applicants educated in the United States ~~[who fail the examination]~~ may ~~[apply to re]~~ take the examination a maximum of three times within three years of first being eligible for to sit for the examination. [?]
- ~~(2) Applicants educated outside of the United States may take the examination a maximum of three times within three years of their initial New Mexico application for licensure through examination. [Up to eight times in two years.]~~
- (3) The applicant must wait 45 days to retest after failing the exam.
- ~~(2) An application expires after six months and a new application and all the supporting documentation must be submitted.]~~
- ~~(3)4~~ Applicants for re-examination must meet all NCLEX requirements for retaking the examination.
- ~~(4) If the applicant did not pass the exam in eight attempts or within two years of graduating, or did not attempt the exam within two years of graduating;~~
 - ~~(a) the applicant must submit an individualized remediation plan within six months of the last date of taking the NCLEX to the nurse education advisory committee for consideration;~~
 - ~~(b) the applicant has one year to fully execute the approved plan;~~
 - ~~(c) upon full execution of the plan, the board's designee will authorize the applicant to take the exam four more times within one year before becoming indefinitely ineligible to sit NCLEX based on nursing program graduation. Subsequent graduations will reset the applicant's NCLEX eligibility;~~
 - ~~(d) applicants educated outside of the United States who have practiced nursing for any time may petition the nursing education advisory committee for an alternative schedule for successful completion of the NCLEX not based on graduation date;~~
 - ~~(e) graduates who have not passed the NCLEX within two years of graduation and who graduated prior to July 1, 2014 may submit a remediation plan by December 31, 2016.~~

K. National council licensing examination.

- (1) Applicants for licensure as registered nurses shall be required to pass the NCLEX-RN.
- (2) Applicants for licensure as licensed practical nurses shall be required to pass the NCLEX-PN.
- (3) Applicants observed giving or receiving unauthorized assistance during the taking of the national licensing examination shall be referred to the board by a sworn complaint.

L. Prerequisites for licensure of registered nurses and licensed practical nurses by endorsement.

- (1) Verification *directly* from the licensing authority which shall include:
 - (a) graduation from an approved nursing program or an acceptable level of education as determined by the board or a nursing program which is equivalent to an approved program of nursing in the United States; and
 - (b) initial licensure by passing a national licensure examination in English or a state constructed licensure examination prior to October 1986.
- (2) Applicants from licensing authorities which do not verify graduation from a nursing education program, must assure that a final transcript is sent to the board of nursing *directly* from the educational institution or custodian of records verifying graduation from an approved nursing program or equivalent, or
- (3) Canadian applicants who have been endorsed by another state after passing the Canadian nursing exam in English or the NCLEX are eligible for endorsement into NM.
- (4) Complete and submit the required application for licensure by endorsement in accordance with all instructions, including the required fee.
- (5) The board shall not approve an application for endorsement until the applicant provides the following information:
 - (a) demographics, including race, ethnicity and primary and other languages, spoken;

- (b) practice status, including but not limited to: active practices in New Mexico and other locations; practice type, practice settings, such as hospital, clinic or other clinical settings;
- (c) education, training and primary and secondary specialties;
- (d) average hours worked per week and the average number of weeks worked per year in the licensed profession;
- (e) percentage of practice engaged in direct patient care and in other activities, such as teaching, research and administration in the licensed profession;
- (f) practice plans for the next five years, including retiring from the health care profession, moving out of state or changing health care work hours.

(6) Applicants will follow the criminal background check process required by the New Mexico department of public safety or its agent and have a new criminal background check approved.

M. Qualifications for licensure as a RN or LPN are pursuant to the Nursing Practice Act.

(1) LPN applicants initially licensed after July 1, 1969 must meet the educational requirements;

(2) Military personnel, licensed as LPNs by successful writing of the national licensing examination prior to July 1, 1977, may be licensed in New Mexico by endorsement providing their DD-214 shows the related civilian occupation to be "LPN";

(3) Continuing education (CE) is not required for initial licensure by endorsement. CE requirements must be met at the time of the first renewal. CE may be prorated to commensurate with the length of the renewal period;

(4) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

N. A temporary license may be issued to an endorsee upon submission of:

(1) a completed endorsement application and required fee in accordance with all instructions;

(2) applicants will follow the criminal background check process required by the New Mexico department of public safety or its agent and have a criminal background check result approved.

(3) the board will issue the temporary license to the applicant;

(4) a temporary license is valid for a period not to exceed six months from the date of application, is non-renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action;

(5) applicant is responsible for assuring that all requirements have been met and all documents have been received prior to the expiration date of the temporary license;

(6) the discovery of inaccurate or false information, on the licensure application, may be subject to recall of the temporary license by the board and denial of licensure.

O. An initial license shall be valid until the last day of the applicants' birth month after the first anniversary of the initial license.

P. If the licensure process is not completed within six months after date application received by the board, the application becomes null and void.

Q. In case of a medical emergency (as defined in these rules), nurses currently licensed to practice as a RN or LPN in a jurisdiction of the United States may practice in New Mexico without making application for a New Mexico license for a period not to exceed 30 days.

R. Requirements for relicensure and reactivation. Applicants for relicensure and reactivation must meet CE requirements as stated in these rules, pursuant to the Nursing Practice Act Section 61-3-24 NMSA 1978. The CE may be prorated to commensurate with the length of the renewal period.

(1) Licensed nurses shall be required to complete the renewal process by the end of their renewal month every two years.

(2) A renewal notice shall be mailed to the licensee at least six weeks prior to the end of the renewal month.

(a) Renewal of license may be accepted no more than 60 days prior to the expiration date of the license.

(b) The board shall not approve an application for a renewal of license until the applicant provides the following information:

(i) demographics, including race, ethnicity and primary and other languages spoken;

(ii) practice status, including but not limited to: active practices in New Mexico and other locations; practice type, practice settings, such as hospital, clinic or other clinical settings;

(iii) education, training and primary and secondary specialties;
 (iv) average hours worked per week and the average number of weeks worked per year in the licensed profession;
 (v) percentage of practice engaged in direct patient care and in other activities, such as teaching, research and administration in the licensed profession;
 (vi) practice plans for the next five years, including retiring from the health care profession, moving out of state or changing health care work hours.

(c) Failure to receive notice renewal shall not relieve the licensee of the responsibility of renewing the license by the expiration date.

(d) If the license is not renewed by the end of the renewal month, licensee does not hold a valid license and shall not practice nursing in New Mexico until the lapsed licensed has been reactivated.

(e) A reactivation fee will be charged when license has lapsed.

(f) **Exception:** if renewing, nurses who are mobilized for active duty are not required to renew their license while on active duty, other than training, during a military action. A copy of the mobilization orders must be submitted to the board office prior to expiration of the license. The license extension shall end one month after deployment is concluded. No reactivation fee will be charged when the license is renewed.

(3) 30 hours of approved CE must be accrued within the 24 months immediately preceding expiration of license. CE may be prorated to commensurate with the length of the renewal period.

(a) Certified nurse practitioners must complete a total of 50 hours of approved CE each renewal. CE may be prorated to commensurate with the length of the renewal period. A copy of the specialty certification/recertification card or certificate shall be presented at the time of each subsequent renewal.

(b) Certified registered nurse anesthetists must submit a copy of the recertification card issued by NBCRNA for renewal of the CRNA license.

(c) Clinical nurse specialist must complete a total of 50 hours of approved continuing education each renewal. CE may be prorated to commensurate with the length of the renewal period. A copy of the specialty certification/recertification card or certificate shall be presented at the time of each subsequent renewal.

(d) **Exception:** if renewing, nurses mobilized for military action are not required to meet the CE requirements while on active duty, other than training, during a military action. A copy of the mobilization order must be submitted along with the renewal application.

(4) Individuals who reside out-of-state who do not hold primary residence in a nurse licensure compact state, but wish to maintain a current, valid New Mexico license, must meet the same requirements for licensure as licensees residing within the state who have declared New Mexico as their primary residence.

(5) **Penalty:** failure of licensee to meet the CE requirement for licensure shall result in the license not being renewed, reinstated, or reactivated. When the CE requirement has been met, an application for licensure may be submitted for consideration.

(6) Licenses can be verified by phone verification, on the board website or www.nursys.com.

(7) Individuals who are reactivating a license which has been lapsed for four or more years must complete a refresher course that includes both a didactic and clinical component designed to prepare a nurse who has been out of practice to re-enter into practice.

(a) Applicants will follow the criminal background check process required by the New Mexico department of public safety or its agent and have a new criminal background check result approved.

(b) A temporary license will be issued not to exceed six months unless the board of nursing approves an extension to allow the individual to complete the refresher course clinical component. If documentation is not received by the board verifying successful completion of the refresher course prior to the temporary license expiration date, the individual will not be allowed to practice nursing.

(c) Advanced practice nurses who are reactivating an advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is reflective of their specific advanced practice knowledge, skills and expertise. A temporary license will be issued not to exceed one year unless board of nursing approves an extension.

S. Requirements for name-address change:

(1) **Address change:** Immediate notification of address change *must be made* to the board office.

(2) **Name change:** Nurse must use name as it appears on current license until name change is in effect. Name change can be submitted with license renewal or at any given time. Submit a copy of the legal document required for name change (*only* recorded marriage certificate, divorce decree or court order accepted).

T. Reactivation/reinstatement of a lapsed license must meet the requirements for relicensure pursuant to the Nursing Practice Act and these rules. A reactivated or reinstated license shall be valid up to two years.

U. Inactive status. Licensee may request her/his license be placed on inactive status during the renewal cycle only; however, the licensee may not function in a nursing capacity as a New Mexico licensed nurse until the license is reactivated.

V. The board will collect a standardized core essential data set as required in regulation for examinations and renewals which will be entered into the internal licensing database at the board of nursing. [16.12.2.10 NMAC - Rp, 16.12.2.10 NMAC, 10/1/2016; A, 9/12/2017]

16.12.2.11 CONTINUING EDUCATION:

A. Introduction.

(1) Pursuant to the provision of the Nursing Practice Act, the board of nursing prescribes the following regulations establishing requirements for CE to be met by the licensee to protect the health and well-being of the citizens of New Mexico and to promote current nursing knowledge and practice.

(2) Philosophy of CE: The members of the New Mexico board believe that CE is one of the most important responsibilities of the nurse and is a lifelong process. The primary responsibility for CE rests with the individual nurse. A diversity of nursing-related learning activities is recommended to enhance the scope of professional development.

B. Requirements and rules.

(1) Records.

(a) All licensees must indicate compliance with the CE required by these rules on the renewal application. All information must be completed as requested.

(b) Licensees are responsible for maintaining their own CE records and for keeping the certificates of verification of attendance of CE activities for at least one year after the license is renewed. Photocopies of certificates must be submitted to the board office only if audited and requested.

(2) CE Audit.

(a) Continuing education records are subject to audit by the board.

(b) Licensee may be subject to disciplinary action by the board if non-compliant within 60 days of the first notification of audit.

(c) When audited, CE may be prorated to commensurate with the length of the renewal period.

C. Approved continuing education. To be acceptable in New Mexico, the CE activity must have been approved by a recognized approval body and must enhance the licensee's scope of professional development as related to his/her activities in nursing. The participant must receive a certificate of attendance which validates the number of approved CE hours awarded, name of the participant, sponsoring agency, approval body and date attended. Correspondence courses and home-study programs are acceptable, if approved.

(1) Recognized approval bodies for CE for nurses.

(a) National or state recognized nursing organizations.

(b) Other state boards of nursing.

(c) New Mexico board-approved local monitoring systems.

(2) Other CE which may be accepted as approved CE for nurses:

(a) academic credit, computation: one academic credit equals 15 contact hours;

(b) CE units (CEUs) or contact hours awarded by CE divisions within educational institutions of higher learning;

(c) educational offerings approved through other generally recognized health care or professional organizations as related to licensee's nursing practice.

D. Monitoring system. CE hours accrued through educational offerings approved by a local monitoring system shall be accepted as meeting the CE requirements for licensure in New Mexico but may not be accepted by other state boards of nursing as approved CE.

(1) Local monitoring systems must be approved initially and annually by the board of nursing. A guideline for the establishment and operation of a local monitoring system is available in the board office.

(2) The approval of educational offerings shall be determined on the approval criteria developed by the board.

E. Certification or recertification in the registered nursing specialty area. Certification or recertification granted by a national professional organization which uses criteria designed to recognize competence in a specialized area of nursing practice may be used as approved CE. Verification of certification or recertification within the current renewal period is accepted in lieu of the 30 hours of CE required for licensure.

[16.12.2.11 NMAC - Rp, 16.12.2.11 NMAC, 10/1/2016]

16.12.2.12 STANDARDS OF NURSING PRACTICE:

A. The nurse shall maintain individual competence in nursing practice, recognizing and accepting responsibility for individual actions and judgments.

(1) Competent nursing practice requires that the nurse have the knowledge and skills to practice nursing safely and properly in accordance with his/her licensure status and to perform specific functions or procedures required in his/her particular area of practice. Competent nursing practice also requires that the nurse have the knowledge to recognize and respond to any complication(s) which may result from the function or procedure the nurse performs.

(2) To maintain the requisite knowledge and skills, the nurse shall engage in CE specific to his/her particular area of practice.

(3) The nurse shall use individual competence as a criterion in accepting assigned responsibilities.

(4) The nurse contributes to the formulation, interpretation, implementation and evaluation of the objectives and policies to nursing practice within his/her employing setting.

B. The nurse shall assign/delegate to licensed and unlicensed persons only those nursing actions which that person is prepared, qualified or licensed or certified to perform.

(1) The nurse is accountable for assessing the situation and is responsible for the decision to delegate or make the assignment.

(2) The delegating nurse is accountable for each activity delegated, for supervising the delegated function or activity, and for assessing the outcome of the delegated function or activity.

(3) The nurse may not delegate the specific functions of nursing assessment, evaluation and nursing judgment to non-licensed persons.

(4) Registered nurses engaged in school nursing practice may delegate medication administration, including emergency medication, to adults affiliated with school operations.

C. The nurse shall have knowledge of the laws and rules governing nursing and function within the legal boundaries of nursing practice.

(1) The nurse must report incompetent and unprofessional conduct to the appropriate authorities.

(2) The nurse must report violations of the Nursing Practice Act and administrative rules of the board of nursing to the board of nursing.

D. The nurse acts to safeguard the patient/client when his care and safety are affected by incompetent, unethical, or illegal conduct of any person by reporting the conduct to the appropriate authorities.

E. The nurse shall recognize the dignity and rights of others regardless of social or economic status and personal attributes, shall conduct practice with respect for human dignity, unrestricted by considerations of age, race, religion, sex, sexual orientation, national origin, disability or nature of the patient/client's health problems.

F. The nurse safeguards the individual's right to privacy by judiciously protecting information of a confidential nature, sharing only that information relevant to his care.

G. The nurse shall identify herself/himself by name and licensure category and shall permit inspection of their license when requested.

H. Standards for professional registered nursing practice. Registered nurses practice in accordance with the definition of professional registered nursing in the NPA. Subsection J of Section 61-3-3 NMSA 1978.

(1) RNs may assume specific functions and perform specific procedures which are beyond basic nursing preparation for professional registered nursing Subsection J of Section 61-3-3 NMSA 1978 provided the knowledge and skills required to perform the function and procedure emanates from a recognized body of knowledge and practice of nursing, and the function or procedure is not prohibited by any law or statute.

(2) When assuming specific functions and performing specific procedures, which are beyond the nurse's basic educational preparation, the RN is responsible for obtaining the appropriate knowledge, skills and supervision to assure he/she can perform the function/procedure safely and competently.

(a) Administration of medication for the purposes of procedural sedation and analgesia requires particular attention:

(b) A nurse shall possess specialized nursing knowledge, judgment, skill and current clinical competence to manage the nursing care of the patient receiving procedural sedation including:

(i) being currently trained with demonstrated proficiency in ACLS or PALS;
(ii) knowledge of anatomy, physiology, pharmacology, cardiac arrhythmia recognition, oxygen delivery, respiratory physiology, transport and uptake and the use of an oxygen mask, bag-valve mask, oral airway, nasal airway adjunct, or the maintenance of a supraglottic airway, or endotracheal tube;
(iii) ability to recognize emergency situations and institute emergency procedures as appropriate to the patient condition and circumstance.

(c) To perform procedural sedation a registered nurse:

(i) shall not have other responsibilities during or after the procedure that would compromise the nurse's ability to adequately monitor the patient during procedural sedation/analgesia;

(ii) shall assess the physical setting for safe administration of medications for sedation and proceed only if the resources needed for reasonable anticipated emergencies are available;

(iii) shall ensure that a qualified airway specialist is readily available during and after the procedure for respiratory emergencies. A qualified airway specialist is trained in and maintains a current competency in endotracheal intubation, such as but not limited to a CRNA, anesthesiologist, emergency physician, paramedic, respiratory therapist or a registered nurse;

(iv) shall decline to administer medications classified as sedatives or other medication if the registered nurse assesses the administration of sedatives or other medication would be unsafe under the circumstances;

(v) shall maintain adequate oxygenation and ventilation via an appropriate method.

I. Standards for licensed practical nursing practice. Licensed practical nurses practice in accordance with the definition of licensed practical nursing in the NPA Subsection G of Section 61-3-3 NMSA 1978.

(1) LPNs may assume specific functions and perform specific procedures which are beyond basic preparation for licensed practical nursing Subsection G of Section 61-3-3 NMSA 1978 provided the knowledge and skills required to perform the function and procedure emanates from the recognized body of knowledge and practice of nursing, and the functions or procedure is not prohibited by any law or statute. LPNs who perform procedures which are beyond basic preparation for practical nursing must only perform these procedures under the supervision/direction of a RN.

(2) LPNs may perform intravenous therapy, including initiation of IV therapy, administration of intravenous fluids and medications, and may administer medications via the intraperitoneal route provided the LPN has the knowledge and skills to perform IV therapy safely and properly.

(3) When assuming specific functions and performing specific procedures which are beyond the LPN's basic educational preparation, the LPN is responsible for obtaining the appropriate knowledge, skills and supervision to assure he/she can perform the function/procedure safely and competently.

J. Educational program criteria. Educational programs preparing either RNs or LPNs to perform specific functions and procedures that are beyond basic educational preparations should:

(1) prepare the nurse to safely and properly perform the function and procedures;
(2) prepare the nurse to recognize and respond to any complication(s) which may result from the procedure, and;

(3) verify the nurse's knowledge and the ability to perform the specific functions and procedures.

K. Nursing practice advisory committee. Board of nursing may appoint a minimum of a seven-member advisory committee to assist the board in regulating the practice of nursing. The committee shall assist and advise the board in the review of issues related to the practice of nursing.

[16.12.2.12 NMAC - Rp, 16.12.2.12 NMAC10/1/2016]

16.12.2.13 ADVANCED PRACTICE REGISTERED NURSE (APRN) CERTIFIED NURSE PRACTITIONER (CNP):

A. Requirements for licensure of nurse practitioners.

(1) Hold a current, unencumbered RN license from New Mexico or hold a compact multi-state RN license.

(2) Successfully complete a graduate level nursing program designed for the education and preparation of nurse practitioners as providers of primary, or acute, or chronic, or long-term, or end of life health care.

(a) The program must be offered through an accredited institution of higher education or through the armed services.

(b) If the applicant is initially licensed by any board of nursing including the New Mexico board of nursing after January 1, 2001 the program must be at the master's in nursing level or higher. Applicants who do not hold a master's level or higher degree from a nurse practitioner program and were initially licensed by any board before January 1, 2001, must provide verification of NP licensure.

(c) The educational documentation shall verify the date of graduation, credentials conferred and number of supervised clinical hours as a nurse practitioner in the education program.

(3) Provide evidence of successful accomplishment of national certification as a nurse practitioner.

(4) It is the responsibility of the applicant to provide documented evidence of his/her qualifications for licensure.

(5) Applicants who meet the minimum didactic and pharmacology requirements, but lack the required preceptorship, may be considered for licensure in New Mexico if the applicant provides satisfactory evidence of two years nurse practitioner experience in another jurisdiction.

(6) Nurse practitioners who will be requesting prescriptive authority must also comply with the requirements for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate nurse practitioner. The applicant seeking licensure as a nurse practitioner shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the New Mexico nurse practitioner licensure application and submit it along with all required documents in accordance with the instructions.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or its designee.

(4) Nurse practitioners are not eligible to practice in New Mexico as a certified nurse practitioner until so licensed in accordance with the licensure procedures.

(5) The board may appoint nurse practitioners to the advanced practice committee. These nurse practitioners will provide advice regarding licensure and practice of nurse practitioners.

C. Graduate nurse practitioners (GNP) permit-to-practice may be issued, upon written request, provided all requirements have been met except national nursing certification.

(1) GNPs must practice under the direct supervision of a physician or New Mexico Certified Nurse Practitioner (NCP) or Certified Nurse Specialist (CNS) in the specialty.

(2) GNPs may prescribe medications only under the direct supervision of a licensed CNP, CNS or a physician, in compliance with these rules. GNPs must fulfill the requirements in this section to prescribe controlled substances.

(3) GNP permits will be issued to the employer.

(4) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor and the name of the prescription supervisor, is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice at the new place of employment. The permit will be issued directly to the new employing agency.

(5) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GNP permit.

(6) GNP permits cannot be transferred or renewed.

(7) GNP permits expire on the date specified on the permit. Permits shall be valid not to exceed six months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice as a GNP. It is the responsibility of the GNP to request that the national certifying organization notify the board of nursing of the results of the examination.

D. An initial license to practice as a CNP shall be issued only after receipt by the board of proof of national certification. Such proof must be submitted to the board directly from the certifying agency prior to the expiration of the permit or temporary license.

E. Prerequisites for licensure of CNP by endorsement.

(1) Verification *directly* from the licensing authority, which shall include graduation from a nurse practitioner program.

(2) In lieu of verification of advanced practice licensure for the licensing authority the board will accept:

(a) documentation directly from that licensing authority that the state does not issue advanced practice licensure;

(b) a sworn affidavit from applicant that they practice as an advance practice nurse with the year practice began, and;

(c) if applicant was licensed by another board after January 1, 2001, submit a transcript from the program directly to the board documenting completion of a nurse practitioner program on the master's or higher level.

(3) Verification from applicant of national certification as a nurse practitioner.

(4) Nurse practitioners who are requesting prescriptive authority must comply with the requirements for prescriptive authority as outlined in these rules.

(5) Complete and submit the required application from licensure by endorsement in accordance with all instructions including the required fee.

(6) Continuing education is not required for initial CNP licensure by endorsement.

F. Qualifications for licensure as CNP are pursuant to the Nursing Practice Act.

(1) Refer to Subsection A of 16.12.2.13 NMAC for licensure requirements.

(2) CE requirements must be met at the time of the first renewal;

(a) Advanced practice registered nurse (APRN) newly licensed in New Mexico may have their 20 CE requirements prorated at a ratio of five contact hours for each six months of licensure leading up to the expiration date;

(b) the five contact hours [~~of the 15 currently required in pharmacology to include~~] addressing management of non-cancer pain shall not be prorated. It shall be required for renewal periods of any length;

(c) APRNs with less than six months of licensure prior to renewal at the time of initial licensure shall complete at least five continuing education contact hours.

(3) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

G. A CNP temporary license may be issued to an endorsee awaiting results on successful completion of national certification.

H. A temporary nurse practitioner license may be issued to an endorsee who:

(1) submits a completed endorsement application and fee in accordance with all instructions;

(2) submits a copy of current national certification as a nurse practitioner; the following exceptions can be made;

(a) nurse practitioners who were licensed by any jurisdiction before December 2, 1985 are not required to hold national certification; or

(b) when the state of former advanced practice licensure does not require national certification; proof of national certification as a nurse practitioner must be submitted to the board before a license will be issued;

(3) the board will issue the temporary license to the applicant;

(4) a temporary license is valid for a period not to exceed six months from the date of application, is non-renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action;

(5) applicant is responsible for assuring that all requirements have been met and all documents have been received prior to the expiration date of the temporary license;

(6) the discovery of inaccurate or false information, on the licensure application, may be subject to recall of the temporary license by the board and denial of licensure.

I. An initial nurse practitioner license shall be valid until the last day of the applicant's birth month after the first anniversary of the initial license. For nurses from compact states, an NM advanced practice license will be issued with the same expiration date as the RN compact license. A letter of authorization will be issued to NPs who have RN multi-state licensure privileges from another nurse licensure compact state. Official verification to practice is located on the board website.

J. If the licensure process is not completed, the application becomes null and void six months after the date of application being received at the board.

K. Authorization to expand scope of practice or who need recertification.

(1) A letter of authorization will be issued for the CNPs who through additional formal education have expanded their practice into another area of NP practice or who need practice hours to recertify provided all requirements have been met except national certification.

(2) A letter of verification of intent to provide a preceptorship, on official letterhead including the name of the practice preceptor and the name of the prescription preceptor must be submitted to the board of nursing.

(3) Practice must be under the direct supervision of a physician or licensed New Mexico CNP or CNS in the specialty.

(4) Prescribing may be done only under the direct supervision of a licensed CNP or CNS or a physician in compliance with these rules.

(5) A letter of authorization will be issued to the preceptor.

(6) A letter of authorization cannot be transferred, renewed or a duplicate issued.

(7) A letter of authorization will expire on the date specified.

(a) A letter of authorization shall be valid not to exceed six months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice in that area. It is the responsibility of the CNP to request that the national certifying organization notify the board of the results of the examination. A letter of authorization may be valid for a period not to exceed two years.

(b) A letter of authorization shall be valid for six months for those applicants recertifying.

(c) A letter of authorization shall be issued for the prescriptive authority preceptorship. This letter will only be valid for the duration of the preceptorship expansion of scope of practice or recertification required hours of practice.

L. Maintaining licensure as a nurse practitioner.

(1) National certification: NPs must maintain national certification. A copy of the specialty certification/recertification card shall be presented at the time of each subsequent renewal. Nurse practitioners licensed by the NM board, after December 2, 1985 are required to be nationally certified in their specialty.

(2) Continuing education.

(a) The CNP shall accrue a total of 50 contact hours of approved CE each renewal period. National certification or recertification as a NP may not be used to fulfill any portion of the CE requirement:

(i) 30 contact hours shall meet the requirements for licensure as a RN, and

(ii) an additional 20 contact hours, 15 of which must be pharmacology are

required.

(iii) ~~[CNP's]~~ CNPs with DEA registration and licensure that permits prescribing opioids shall obtain five contact hours ~~addressing~~ ~~[of the 15 currently required in pharmacology to include]~~ management of non-cancer pain in lieu of five of the 15 contact hours required in pharmacology.

(iv) ~~[CNP's]~~ CNPs from compact states are only required to fulfill CE requirements listed under item (ii) and (iii) of this subparagraph.

(v) CE may be prorated to commensurate with the length of the renewal period.

(b) The CE shall be in accordance with the requirements as set forth in these rules.

M. Reactivation. To reactivate or reinstate licensure as a nurse practitioner, the nurse must provide evidence of meeting the CE requirements.

(1) NPs licensed by the board after December 2, 1985 must also provide evidence of current national certification.

(2) CNPs who are reactivating an advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is reflective of their knowledge skills and expertise. A temporary license will be issued not to exceed one year, unless the board of nursing approves an extension.

N. Nurse practitioner practice.

(1) The CNP makes independent decisions regarding the health care needs of the client and also makes independent decisions in carrying out health care regimens.

(2) The CNP provides primary or acute, or chronic, or long-term, or end of life health care to meet the health care needs of individuals, families and communities in any health care setting.

(3) The CNP may assume specific functions or perform specific procedures which are beyond the advanced educational preparation and certification for the CNP provided the knowledge and skills

required to perform the function or procedure emanates from a recognized body of knowledge or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions and performing specific procedures, which are beyond the CNP's advanced educational preparation and certification, the CNP is responsible for obtaining the appropriate knowledge, skills and supervision to ensure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(4) The CNP collaborates as necessary with other healthcare providers. Collaboration includes discussion of diagnosis and cooperation in managing and delivering healthcare.

(5) CNPs who have fulfilled requirements for prescriptive authority may prescribe and distribute dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act within their clinical specialty and practice setting.

(a) Requirements for prescriptive authority: In accordance with applicable state and federal laws, the CNP who fulfills the following requirements may prescribe and distribute dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act.

(i) Verifies 400 hours of work experience in which prescribing dangerous drugs has occurred within the two years immediately preceding the date of the application. Individuals who have not fulfilled this requirement must provide documentation of successful completion of 400 hours of prescribing dangerous drugs in a preceptorship with a licensed CNP, CNS or physician. The preceptorship must be completed within six months and a letter of authorization will be issued for the duration of the preceptorship.

(ii) In order to prescribe controlled substances, the CNP must provide the board of nursing with verification of current state controlled substances registration and current DEA number, unless the CNP has met registration waiver criteria from the New Mexico board of pharmacy as provided under Subsection I of 16.19.20.8 NMAC. CNPs may not possess, prescribe or distribute controlled substances until they have both a current state controlled substances registration and a current DEA registration.

(iii) Once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

(b) Formulary. It is the CNP's responsibility to maintain a formulary of dangerous drugs and controlled substances that may be prescribed; the only drugs to be included in the formulary are those relevant to the CNP's specialty and practice setting. The board of nursing reserves the right to audit the formulary of the CNP. Licensees may be subject to disciplinary action by the board of nursing if non-compliant with the audit.

(c) Prescription records; written, verbal or electronic prescriptions and orders will comply with state board of pharmacy and federal requirements. All prescriptions will include the name, title, address, and phone number of the prescribing advanced practice registered nurse.

(d) Distributing: CNPs, who have fulfilled requirements for prescriptive authority as stated in these rules, and defined by the board of pharmacy may distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act, which have been prepared, packaged, or fabricated by the registered pharmacist or doses which have been pre-packaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act Section 61-11-12 NMSA 1978 and the Drug, Device and Cosmetic Act for the benefit of the public good.

(e) Labeling: CNPs may label only those drugs which the CNP prescribes and distributes to patients under the CNP's care. The medication shall be properly labeled with the patient's name, date of issue, drug name and strength, instructions for use, drug expiration date, number dispensed and name, address and telephone number of the CNP. Labeling may be handwritten or a pre-printed fill-in label may be used. All information shall be properly documented in the patient record.

(f) CNPs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

(g) CNPs may prescribe, provide samples of and dispense any dangerous drug to a patient where there is a valid practitioner-patient relationship as defined in 16.12.2.7 NMAC.

(6) Graduate nurse practitioner (GNP) practice.

(a) GNPs may not distribute medications.

(b) GNPs may practice or prescribe medications only under the direct supervision of a licensed CNP, CNS or physician in the specialty.

(7) To insure competency and safe practice in specific regard to prescription writing practices in the state of NM:

(a) a list of current CNPs and their status with regard to prescription writing shall be distributed at least annually and upon request to the board of pharmacy;

(b) violation of these rules or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy;

(c) the board of nursing shall appoint qualified CNPs in each specialty to serve on the board of pharmacy disciplinary panel as requested by the board of pharmacy.

[16.12.2.13 NMAC - Rp, 16.12.2.13 NMAC, 10/1/2016; A, 9/12/2017]

16.12.2.14 ADVANCED PRACTICE REGISTERED NURSE (APRN) CERTIFIED REGISTERED NURSE ANESTHETIST (CRNA):

A. Requirements for licensure as a CRNA.

(1) Hold a current, unencumbered RN license from New Mexico or hold a compact multi-state RN license.

(2) Successfully complete a formal program designed for the education and preparation of certified registered nurse anesthetist. The COA *council on accreditation of nurse anesthesia educational programs* must accredit the program.

(3) If the applicant is initially licensed by any board of nursing including the New Mexico board of nursing after January 1, 2001, the program must be at the master's level or higher. Applicants who do not hold a master's or higher degree from a nurse anesthetist program and were initially licensed by any board before January 2, 2001, must provide verification of CRNA licensure.

(4) Provide evidence of successful completion of a national certification examination as described by the NBCRNA.

(5) It is the responsibility of the applicant to provide documented evidence of his/her qualification for licensure.

(6) Applicants who will be requesting prescriptive authority must also comply with the requirements for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate. The applicant seeking licensure as a certified registered nurse anesthetist shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the New Mexico certified registered nurse anesthetist licensure application and submit it along with all required documents, and fee in accordance with the instructions.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or its designee.

(4) Certified registered nurse anesthetists are not eligible to practice in New Mexico as certified registered nurse anesthetist until so licensed in accordance with the licensure procedures.

(5) The board may appoint certified registered nurse anesthetists to the advanced practice committee. These nurse anesthetists will provide advice regarding licensure and practice of certified registered nurse anesthetists.

C. Graduate registered nurse anesthetist permit-to-practice may be issued, upon written request, provided all requirements have been met except NBCRNA certification.

(1) A permit may be issued following graduation from an approved school of nurse anesthesia to afford the applicant the opportunity for employment pending dissemination of the national qualifying examination results by the NBCRNA.

(2) GRNAs must function in an interdependent role as a member of a health care team and practice at the direction of and in collaboration with a physician, osteopathic physician, dentist or podiatrist.

(3) GRNAs may prescribe and administer medications only in collaboration with a physician, osteopathic physician, dentist or podiatrist in compliance with these rules.

(4) GRNAs permits will be issued to the employer(s).

(5) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor(s) and name of prescription supervisor(s), is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice for the new place of employment. The permit will be issued directly to the new employing agency.

(6) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GRNA permit.

(7) GRNA permits cannot be transferred or renewed.

- (8) GRNA permits expire on the date specified on the permit.
- (a) Permits shall be valid for approximately 12 months subsequent to the date of graduation from the nurse anesthesia program.
- (b) Written proof of application to write the national qualifying exam must be received in the board office within 12 weeks of graduation from the nurse anesthesia program.
- (c) Verification that applicant wrote the national qualifying examination, must be received in the board office within three weeks subsequent to the date of the examination.
- (d) Failure of applicant to write the scheduled qualifying examination or if the exam is failed, will render the applicant ineligible to practice anesthesia in New Mexico and the employer must immediately return the permit-to-permit to the board office. It is the responsibility of the GRNA to request that the national certifying organization notify the board of the results of the examination.
- D.** A license to practice as a CRNA shall be issued only after receipt by the board of proof of NBCRNA certification. Such proof must be submitted to the board by the certifying agency.
- E.** Prerequisites for licensure of CRNA by endorsement.
- (1) Verification *directly* from the licensing authority, which shall include graduation from a COA *council on accreditation of nurse anesthesia educational program* and a graduate level degree after January 1, 2001.
- (2) In lieu of verification of advanced practice licensure from the licensing authority, the board will accept documentation directly from that licensing authority that the state does not issue advanced practice licensure and a sworn affidavit from applicant that they practice as an advance practice nurse with year practice began.
- (3) Verification by applicant of National board of certification and recertification for nurse anesthetists (NBCRNA) certification/recertification.
- (4) Certified registered nurse anesthetists must comply with the requirements for prescriptive authority as outlined in these rules.
- (5) Complete and submit the required application for licensure by endorsement in accordance with all instructions including the required fee.
- (6) Continuing education is not required for initial certified registered nurse anesthetists (CRNA) licensure by endorsement.
- F.** Qualifications for licensure as CRNA are pursuant to the Nursing Practice Act.
- (1) Refer to Subsection A of 16.12.2.14 NMAC for licensure requirements.
- (2) CE requirements must be met at the time of first renewal. Recertification by NBCRNA will meet the mandatory CE requirements for CRNA licensure. CRNA's with DEA registration and licensure that permits prescribing opioids shall obtain five contact hours to include the management of non-cancer pain.
- (3) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.
- G.** A CRNA temporary license may be issued, to an endorsee awaiting results on successful completion of NBCRNA certification.
- H.** A temporary certified registered nurse anesthetist license may be issued to an endorsee who:
- (1) submits a completed endorsement application in accordance with instructions and fee;
- (2) submits a copy of current NBCRNA council of recertification of nurse anesthetist;
- (3) the board will mail the temporary license to the endorsee;
- (4) a temporary license is valid for a period not to exceed six months from the date of application;
- (5) a temporary license is not renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action;
- (6) applicant is responsible for assuring that all requirements have been met and all documents have been received prior to the expiration date of the temporary license;
- (7) the discovery of inaccurate or false information, on the licensure application, may be subject to recall of the temporary license by the board and denial of licensure.
- I.** An initial certified registered nurse anesthetist license shall be valid until the last day of the applicant's birth month after the first anniversary of the initial license. For nurses from compact states, a New Mexico advanced practice license will be issued with the same expiration date as the compact RN license. A letter of authorization will be issued to CRNAs who have RN multi-state licensure privileges from another nurse licensure compact states. Official verification of authorization to practice is available through the board website.

J. If the licensure process is not completed, the application becomes null and void six months after the date received at the board of nursing.

K. Maintaining licensure as a certified registered nurse anesthetist.

(1) National certification: CRNAs must maintain NBCRNA. A copy of the recertification card must be presented at the time of each subsequent renewal.

(2) Continuing education: recertification by NBCRNA is accepted for meeting mandatory CE requirement.

L. Reactivation: to reactivate or reinstate licensure as a certified registered nurse anesthetist.

(1) The nurse must provide evidence of current recertification by the NBCRNA.

(2) CRNAs who are reactivating an advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is reflective of their knowledge, skills and expertise. A temporary license will be issued not to exceed one year, unless board of nursing approves an extension.

M. Certified registered nurse anesthetist practice.

(1) The CRNA provides pre-operative, intra-operative and post-operative anesthesia care and related services, including ordering of diagnostic tests, in accordance with the current *American association of nurse anesthetists'* guidelines for nurse anesthesia practice.

(2) The CRNA functions in an interdependent role as a member of a health care team in which the medical care of the patient is directed by a licensed physician, osteopathic physician, dentist or podiatrist licensed in New Mexico.

(3) The CRNA may assume specific functions or perform specific procedures which are beyond the advanced educational preparation and certification for the CRNA provided the knowledge and skills required to perform the function or procedure emanates from a recognized body of knowledge or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions or performing specific procedures, which are beyond the CRNA's advanced educational preparation and certification, the CRNA is responsible for obtaining the appropriate knowledge, skills and supervision to ensure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(4) The CRNA collaborates as necessary with the licensed physician, osteopathic physician, dentist or podiatrist concerning the anesthesia care of the patient. Collaboration means the process in which each health care provider contributes his/her respective expertise. Collaboration includes systematic formal planning and evaluation between the health care professionals involved in the collaborative practice arrangement.

(5) CRNAs who have fulfilled requirements for prescriptive authority may prescribe and administer therapeutic measures, including dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act within the specialty of anesthesia and practice setting.

(a) Requirements for prescriptive authority: in accordance with applicable state and federal laws, the CRNA who fulfills the following requirements may prescribe and administer dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act.

(i) Verifies 400 hours of work experience in which prescribing and administering dangerous drugs has occurred within the two years immediately preceding the date of the application. Individuals who have not fulfilled this requirement must provide documentation of successful completion of 400 hours of prescribing dangerous drugs in a preceptorship with a CRNA or physician. The preceptorship must be completed within six months and a letter of authorization will be issued for the duration of the preceptorship.

(ii) In order to prescribe controlled substances, the CRNA must provide the board of nursing with verification of current state controlled substances registration and current drug enforcement administration (DEA) number, unless the CRNA has met registration waiver criteria from the New Mexico board of pharmacy (Subsection I of 16.19.20.8 NMAC). CRNAs may not possess or prescribe controlled substances until they have both a current state controlled substances registration and a current DEA registration.

(iii) Once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

(b) Formulary: the formulary will include agents related to the administration of anesthesia and Advanced Cardiac Life Support (ACLS) protocol agents.

(i) All CRNAs must adhere to the current formulary approved by the board of nursing.

(ii) The initial formulary or a formulary with changes will be submitted to the board of medical examiners for a review.

(c) Prescription records: written, verbal or electronic prescriptions and order will comply with state board of pharmacy and federal requirements. All prescriptions will include the name, title, address and phone number of the prescribing advanced practice registered nurse.

(d) Prescribing and administering: CRNAs who have fulfilled requirements for prescriptive authority as stated in these rules as defined by the board of pharmacy may prescribe and administer to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act, which have been prepared, packaged or fabricated by a registered pharmacist or doses or drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act Section 61-11-22 NMSA 1978 and the New Mexico Drug, Device and Cosmetic Act for the benefit of the public good.

(e) Distributing: CRNAs who have fulfilled requirements for prescriptive authority as stated in these rules may *not* distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act.

(f) CRNAs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

(6) Graduate registered nurse anesthetist practice.

(a) GRNAs may NOT distribute medications.

(b) GRNAs may practice or prescribe/administer medications only in collaboration with a physician, osteopathic physician, dentist or podiatrist.

(7) To insure competency and safe practice in specific regard to prescription writing practices in the state of NM.

(a) A list of current CRNAs and their status with regard to prescription writing shall be distributed upon request to the board of pharmacy.

(b) Violation of these rules or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy.

(c) The board of nursing shall appoint as requested, qualified CRNAs to serve on the board of pharmacy disciplinary panel as requested by the board of pharmacy.

N. A CRNA business entity formed pursuant to the laws of the state of New Mexico is authorized to provide health care services in the state of New Mexico if the health care services are provided by persons who are duly licensed to engage in the practice of nursing pursuant to the provisions of the Nursing Practice Act. [16.12.2.14 NMAC - Rp, 16.12.2.14 NMAC, 10/1/2016; A, 9/12/2017]

16.12.2.15 ADVANCED PRACTICE REGISTERED NURSE (APRN) CLINICAL NURSE SPECIALIST (CNS):

A. Requirements for licensure as a CNS:

(1) hold a current, unencumbered RN license from New Mexico or hold a compact multi-state RN license;

(2) successfully complete a clinical nurse specialist program at the master's or doctoral level in a defined clinical nursing specialty through an accredited institution of higher education; and

(3) provide evidence of successful accomplishment of certification by a national nursing organization, consistent with the defined clinical nursing specialty, which meets criteria as listed below:

(a) successfully complete a national certifying examination in the applicant's area of specialty;

(b) is certified by a national nursing organization;

(4) it is the responsibility of the applicant to provide documented evidence of his/her qualifications for licensure;

(5) any CNS requesting prescriptive authority must also comply with the regulations for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate CNS: applicant seeking licensure as a CNS shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the New Mexico CNS application and submit it along with all requested documents in accordance with the instructions.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or their designee.

(4) CNSs are not eligible to practice in New Mexico as a CNS until so licensed by the New Mexico board in accordance with licensure procedures.

(5) The board may appoint CNSs to the advanced practice committee. These CNSs will provide advice regarding the licensure and practice of the CNS.

C. Graduate clinical nurse specialist (GCNS) permit to practice.

(1) GCNS permits may be issued upon written request, provided all requirements have been met except certification by a national nursing organization.

(a) GCNSs practice under the direct supervision of another CNS, CNP or physician in the specialty.

(b) GCNSs may prescribe medications only under the direct supervision of a licensed CNS, CNP or physician in compliance with these rules.

(c) GCNS permits will be issued to the employer.

(d) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor and the name of the prescription supervisor is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice at the new place of employment. The permit will be issued directly to the new employing agency.

(e) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GCNS permit.

(f) GCNS permits cannot be transferred or renewed.

(g) GCNS permits expire on the date specified on the permit. Permits shall be valid not to exceed six months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice as a GCNS. It is the responsibility of the GCNS to request that the national certifying organization notify the board of the results of the examination.

(2) An initial license to practice as a CNS shall be issued only after receipt by the board of proof of certification by a national nursing organization. Such proof must be submitted to the board directly from the certifying agency prior to the expiration of the permit or temporary license.

D. Prerequisites for licensure of CNS by endorsement.

(1) Verification *directly* from the licensing authority which shall include graduation from a clinical nurse specialist program in a defined clinical nursing specialty.

(2) In lieu of verification of advanced practice licensure from the licensing authority, the board will accept:

(a) documentation directly from the licensing authority that the state does not issue advanced practice licensure; and

(b) a sworn affidavit from applicant that they practice as an advance practice nurse with year practice began.

(3) Verification by applicant of national certification in a clinical specialty area.

(4) Clinical nurse specialist must comply with requirements for prescriptive authority as outlined in these rules.

(5) Complete and submit the required application for licensure by endorsement in accordance with all instructions including the required fee.

(6) Continuing education is not required for initial CNS licensure by endorsement.

E. Qualifications for licensure as a CNS are pursuant to the Nursing Practice Act.

(1) Refer to Subsection A of 16.12.2.15 NMAC for licensure requirements.

(2) CE requirements must be met at the time of the first renewal.

(3) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

F. A CNS temporary license may be issued to an endorsee awaiting results on successful completion of national certification.

G. A temporary clinical nurse specialist license may be issued to an endorsee who:

(1) submits a completed endorsement application in accordance with all instructions and fee;

(2) submits a copy of current national certification in a nursing specialty; when the state of former advanced practice licensure does not require national certification; national certification in a nursing specialty must be submitted to the board before a license will be issued;

(3) the board will mail the temporary license to the applicant;

(4) a temporary license is valid for a period not to exceed six months from the date of application, is non-renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action;

(5) applicant is responsible for assuring that all requirements have been met and all documents have been received prior to the expiration date of the temporary license;

(6) the discovery of inaccurate or false information, on the licensure application, may be subject to recall of the temporary license by the board and denial of licensure.

H. An initial clinical nurse specialist license shall be valid until the last day of the applicant's birth month after the first anniversary of the initial license. For nurses from compact states, a New Mexico advanced practice license will be issued with the same expiration date as the compact license. A letter of authorization will be issued to CNSs who have RN multi-state licensure privilege from another nurse licensure compact state. Official verification to practice is located on the board website.

I. If the licensure process is not completed, the application becomes null and void one year after the date of application being received at the board.

J. Authorization to expand scope of practice or who need recertification.

(1) A letter of authorization will be issued for the CNSs who through additional formal education have expanded their practice into another area of CNS practice or who need practice hours to recertify provided all requirements have been met except national certification.

(2) A letter of verification of intent to provide a preceptorship, on official letterhead including the name of the practice preceptor and the name of the prescription preceptor must be submitted to the board of nursing.

(3) Practice must be under the direct supervision of a New Mexico CNS or CNP or physician in the specialty.

(4) Prescribing may be done only under the direct supervision of a licensed CNP or CNS or a physician in compliance with these rules.

(5) A letter of authorization will be issued to the preceptor.

(6) A letter of authorization cannot be transferred, renewed or a duplicate issued.

(7) A letter of authorization will expire on the date specified.

(a) A letter of authorization shall be valid not to exceed six months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice in that area. It is the responsibility of the CNS to request that the national certifying organization notify the board of the results of the examination. A letter of authorization may be valid for a period not to exceed two years.

(b) A letter of authorization will be valid for six months for those applicants recertifying.

(c) A letter of authorization shall be issued for the prescriptive authority preceptorship. This letter will only be valid for the duration of the preceptorship for expansion of scope of practice or recertification required hours of practice.

K. Maintaining licensure as a clinical nurse specialist.

(1) The CNS shall be nationally certified in the specialty by a nursing organization and maintain national certification. A copy of the specialty certification/recertification card shall be presented at the time of each subsequent renewal.

(2) Continuing education.

(a) The CNS shall accrue a total of 50 contact hours of approved CE each renewal period. National certification or recertification as a CNS may not be used to fulfill any portion of the CE requirement.

(b) 30 contact hours, shall meet the requirements for licensure as an RN, and

(c) An additional 20 contact hours, 15 of which must be pharmacology are required.

(d) CNSs with DEA registration and licensure that permits prescribing opioids shall obtain five contact hours addressing ~~of the 15 currently required in pharmacology to include~~ management of non-cancer pain in lieu of five of the 15 contact hours required in pharmacology.

(e) CNSs from compact states are only required to fulfill CE requirement listed under (c) and (d).

(f) The CE shall be in accordance with the requirements as set forth in these rules.

(g) CE may be prorated to commensurate with the length of the renewal period.

(3) Reactivation.

(a) To reactivate or reinstate licensure as a CNS, the nurse must provide evidence of meeting the CE requirements: evidence of current national certification must also be provided.

(b) CNSs who are reactivating an advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is reflective of their knowledge, skills and expertise. A temporary license will be issued not to exceed one year, unless the board of nursing approves an extension.

L. Clinical nurse specialist practice.

(1) The CNS is a nurse who through graduate level preparation has become an expert in a defined area of knowledge and practice in a selected clinical area of nursing.

(2) The CNS makes independent decisions in a specialized area of nursing practice, using knowledge about the health care needs of the individual, family and community. The CNS collaborates as necessary with other members of the health care team, when the needs are beyond the scope of practice of the CNS.

(3) The CNS may assume specific functions or perform specific procedures which are beyond the advanced educational preparation and certification for the CNS provided the knowledge and skills required to perform the function or procedure emanates from a recognized body of knowledge or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions or performing specific procedures, which are beyond the CNS's advanced educational preparation and certification, the CNS is responsible for obtaining the appropriate knowledge, skills and supervision to assure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(4) Carries out therapeutic regimens in the area of the specialty.

(5) The CNS who has fulfilled the requirements for prescriptive authority in the specialty area may prescribe and distribute therapeutic measures including dangerous drugs and controlled substances contained in Schedules II through V of the Controlled Substance Act within the scope of the specialty practice and setting.

(a) Requirements for prescriptive authority: In accordance with applicable state and federal laws, the CNS who fulfills the following requirements may prescribe and distribute dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act:

(i) verifies 400 hours of work experience in which prescribing dangerous drugs has occurred within the two years immediately preceding the date of application and provide a copy of a transcript documenting successful completion of the a three credit hour pharmacology course, a three credit hour assessment course and a three credit hour pathophysiology course included as part of a graduate level advanced practice nursing education program; 45 contact hours of advanced level pharmacology continuing education course may be substituted for the academic pharmacology; a certificate of completion must be provided that verifies continuing education; or

(ii) if 400 hours of work experience in which prescribing dangerous drugs cannot be verified, provide a copy of a transcript documenting successful completion of a three credit hour pharmacology course that is included as part of a graduate level advanced practice nursing education program within five years immediately prior to the date of application to the board; 45 contact hours of advanced level pharmacology continuing education course may be substituted for the academic pharmacology; a certificate of completion must be provided that verifies continuing education; the course must be related to the specialty and contain content in pharmacokinetics, pharmacodynamics, pharmacology of current/commonly used medications and application of drug therapy to the treatment of disease or the promotion of health; and

(iii) provide a copy of a transcript documenting successful completion of a three credit hour assessment course that is included as part of a graduate level advanced practice nursing education program; the course must be related to the specialty and include content supported by related clinical experience such that students gain knowledge and skills needed to perform comprehensive assessments to acquire data, make diagnoses of health status and formulate effective clinical management plans; and

(iv) provide a copy of a transcript documenting successful completion of a three credit hour pathophysiology course that is included as part of a graduate level advanced practice nursing education program; the course must be related to the specialty and include content in physiology and pathophysiology;

(v) provide a copy of a transcript documenting successful completion of a 400 hour university/college associated preceptor experience in the prescription of dangerous drugs within the two years immediately prior to the date of application to the board; or

(vi) after fulfilling ii, iii, and iv above, upon application to the board, a letter of authorization for a prescriptive authority preceptorship will be issued to complete a preceptorship, which must be completed within six months;

(vii) in order to prescribe controlled substances, the CNS must provide the board of nursing with verification of current state controlled substances registration and current DEA number, unless the CNS with prescriptive authority has met registration waiver criteria from the New Mexico board of pharmacy; CNSs may not possess, prescribe or distribute controlled substances until they have both a current state controlled substances registration and a current DEA registration;

(viii) once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

(b) Formulary. It is the CNS's responsibility to maintain a formulary of dangerous drugs and controlled substances that may be prescribed. The only drugs to be included in the formulary are those relevant to the CNS's area of specialty practice, scope of practice and clinical setting. The board of nursing reserves the right to audit the formulary. Licensees may be subject to disciplinary action by the board of nursing if non-compliant with the audit.

(c) Prescription records: written, verbal or electronic prescriptions and orders will comply with state board of pharmacy and federal requirements. All prescriptions will include the name, title, address and phone number of the prescribing advanced practice registered nurse.

(d) Distributing: CNSs who have fulfilled requirements for prescriptive authority as stated in these rules, may distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substance Act, which have been prepared, packaged, or fabricated by the registered pharmacist or doses which have been pre-packaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act and the Drug, Device and Cosmetic Act for the benefit of the public good.

(e) Labeling: CNSs may label only those drugs which the CNS prescribes and distributes to patients under the CNS's care. The medication shall be properly labeled with the patient's name, date of issue, drug name and strength, instructions for use, drug expiration date, telephone number of the CNS. Labeling may be handwritten or a pre-printed fill-in label may be used. All information shall be properly documented in the patient record.

(f) CNSs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

(6) Graduate clinical nurse specialist (GCNS) practice.

(a) GCNSs may not distribute medications.

(b) GCNSs may practice or prescribe medications only under the direct supervision of a licensed CNS, CNP or physician in the specialty.

(7) To insure competency and safe practice in specific regard to prescription writing practices in the state of NM:

(a) a list of current CNSs and their status with regard to prescription writing shall be distributed upon request to the board of pharmacy;

(b) violation of these rules or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy;

(c) the board of nursing shall appoint qualified CNSs in each specialty to serve on the board of pharmacy disciplinary panel as requested by the board of pharmacy.

M. Advanced practice committee.

(1) The board may appoint a minimum of a six member advisory committee to assist the board in regulating the advanced practice of nursing.

(2) The committee shall assist and advise the board in the review of issues related to the advanced practice of nursing.

(3) The committee shall be composed of representatives from each advanced practice area regulated by the board.

[16.12.2.15 NMAC - Rp, 16.12.2.15 NMAC, 10/1/2016]

16.12.2.16 DIVERSION PROGRAM FOR CHEMICALLY DEPENDENT NURSES:

A. Purpose. The diversion program is a voluntary alternative to traditional disciplinary action for a nurse whose competencies may be impaired because of the habitual use of drugs or alcohol. Individuals may

request admission into the program following the filing of a complaint against their nursing license or by self-referral.

(1) Admission into the diversion program.

(a) Nurses licensed in New Mexico who have had a complaint filed against their nursing license alleging the use or abuse of drugs/alcohol, or who voluntarily submit a written request shall be given an opportunity to be admitted into the diversion program.

(i) Following a complaint, individuals who do not accept the opportunity for admission into the program shall be processed as a disciplinary case.

(ii) Individuals who voluntarily requested admission and do not complete the admission process within 30 days of request may be subject to disciplinary action by the board.

(iii) It may be recommended that individuals obtain a professional evaluation for chemical dependency or mental health diagnosis and submit a copy of the evaluation to the diversion program.

(iv) The initial contract is a “no use” contract to include prescription medications unless written notification is given by the physician prescribing the medication.

(v) Signatures on the initial contract and amendments constitute a release of information for the diversion program to contact all supporting individuals.

(b) Request for admission shall be made, in writing, to the diversion program coordinator or executive director of the board of nursing.

(c) Each nurse requesting admission shall be scheduled for an admission interview and preparation of an initial contract.

(i) The initial contract shall include conditions which must be met by a participant.

(ii) The contract may be individualized but the form may not be substantially changed without the approval of the board.

(iii) The initial preparation of the contract will be done by the diversion program coordinator, executive director, or experienced regional advisory committee member.

(iv) Participants may be prohibited from access to narcotics, overtime, night shift work and agency/home health care work.

(2) Monitoring participants in the diversion program.

(a) Participants must assure that required written reports and drug screens are submitted in accordance with the provisions of the diversion program contract and contract amendments. Written reports and drug screens *must* be received regularly by the program.

(i) Written reports of the same type and several drug screens received together are not acceptable and may result in the participant being noncompliant.

(ii) Drug screens shall be scheduled randomly and shall be observed in accordance with the guidelines and protocols approved by the board.

(iii) Drug screens must include participant’s drugs of choice.

(b) Participants are required to meet with representatives of the program periodically for an evaluation of their progress in recovery and participation in the program.

(i) After one year of acceptable compliance, amendments may be made in the participant’s contract based on the participant’s progress in recovery and participation in the program.

(ii) Contracts and contract amendments must be submitted with all required signatures within two weeks of the meeting date.

(iii) Failure to meet regularly as scheduled may result in being reported to the board for noncompliance.

(c) Participant shall notify the diversion program coordinator and the executive director of the board, immediately, of a pending relocation out-of-the state of New Mexico. The participant shall complete and submit the out of state relocation form. The executive director shall notify the board of nursing in the state in which participant intends to practice that the licensee is a participant in the New Mexico board of nursing’s diversion program for chemically dependent nurses. Participants who relocate out-of-state must comply with the NM diversion program requirements until participants have been discharged from the program.

(d) The confidential provisions of Section 61-3-29.1 NMSA 1978 are not in effect if the participant leaves New Mexico prior to discharge from the program or has disciplinary action taken or pending by the board.

(3) Relapses and noncompliance with the diversion program contract.

(a) Participants who are noncompliant with their contract and who do not cooperate with the program shall be reported to the board of nursing.

(i) Reports shall be made to the board using the participant's confidential file number.

(ii) The participant's name shall not be disclosed to the board until formal disciplinary proceedings occur.

(b) The diversion program coordinator or the executive director shall file a sworn complaint after a verbal or written report of a relapse, positive drug screen or no verbal or written communication with the diversion program for three months.

(i) A relapse is defined as the unauthorized use of any mind-altering drug or alcohol.

(ii) The relapse shall be reported to the board of nursing at its next regularly scheduled meeting.

(c) The board shall move for a **notice of contemplated action** (NCA) and may summarily suspend the license of the participant for a period not to exceed 90 days pending the completion of a formal disciplinary proceeding before the board of nursing for relapse or positive drug screen.

(d) An individual whose license is reinstated following a summary suspension shall remit the required reinstatement fee.

(e) Participants who appear before the board for a disciplinary hearing may be required to enter into a new diversion program contract.

(4) Discharge from the diversion program.

(a) Participants who remain drug and alcohol free for three full years and comply with all conditions of their diversion program contract for at least 24 months may request discharge from the diversion program.

(b) Participants must be evaluated for discharge by a quorum of advisory committee members or the diversion program coordinator and must submit letters of recommendation from supervisor, sponsor, counselor (if applicable), and self.

(c) The diversion program coordinator shall make a recommendation to the board of nursing at its next regularly scheduled meeting regarding the approval/disapproval of discharge for the participant.

(5) Regional advisory committees.

(a) The board shall establish regional advisory committees throughout the state in accordance with Section 61-3-29.1 NMSA 1978 for the purpose of assisting the program coordinator to conduct admission interviews, prepare initial contract and to periodically evaluate participant's progress in recovery and participation in the program.

(b) Members of advisory committees shall be appointed by the board and shall function under the direction of the board. No current member of the board shall be appointed to an advisory committee.

(6) Diversion program participant's records.

(a) All program participants' records are confidential and are maintained in accordance with Section 61-3-29.1 NMSA 1978.

(b) Upon discharge from the program, all files and records shall be destroyed.

(c) Records concerning licensees who violate the diversion program contract shall become a matter of public record upon disciplinary action by the board of nursing. This disciplinary record may contain complaint, investigation report, documentary evidence, contract, drug screen reports, documents relevant to the hearing, notice of contemplated action, notice of hearing.

[16.12.2.16 NMAC - Rp, 16.12.2.16 NMAC, 10/1/2016]

HISTORY of 16.12.2 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the state records center and archives under: BON 73-1, rules and regulations of the Nursing Practice Act, filed 3/13/1973; BON 78-1, administrative rules and regulations of the New Mexico board of nursing, filed 11/2/1978; Bon Manual #83-1, administrative rules and regulations of the New Mexico board of nursing, filed 6/13/1983; BON Manual #85-1, administrative rules and regulations of the New Mexico board of nursing, filed 8/13/1985; BON Manual #91-2, administrative rules and regulations of the New Mexico board of nursing, filed 10/9/1991.

History of the Repealed Material:

16.12.2 NMAC, Nurse Licensure, filed 6/12/2001 - Repealed effective 10/1/2016.

Other History: 16 NMAC 12.2, Nursing and Health Care Related Providers & Nurse Licensure filed 12/10/1997, renumber, reformatted and amended to 16.12.2 NMAC effective 7/30/2001.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 12 NURSING AND HEALTH CARE RELATED PROVIDERS
PART 9 MANAGEMENT OF CHRONIC PAIN WITH CONTROLLED SUBSTANCES

16.12.9.1 ISSUING AGENCY: New Mexico Board of Nursing.
[16.12.9.1 NMAC - N, 2/17/2006]

16.12.9.2 SCOPE: This rule applies to all advanced practice nurses, including certified nurse practitioners, certified registered nurse anesthetists, and clinical nurse specialists with prescriptive authority.
[16.12.9.2 NMAC - N, 2/17/2006; A, 11/20/2012]

16.12.9.3 STATUTORY AUTHORITY: Section 61-3-1 NMSA 1978 *et seq.*, authorized the board of nursing to regulate the practice of nursing in the state and the Pain Relief Act, Subsections D of Sections 24-2-1 through 24-2-6 NMSA 1978.
[16.12.9.3 NMAC - N, 2/17/2006, A, 11/20/2012]

16.12.9.4 DURATION: Permanent
[16.12.9.4 NMAC - N, 2/17/2006]

16.12.9.5 EFFECTIVE DATE: February 17, 2006, unless a later date is cited at the end of a section.
[16.12.9.5 NMAC - N, 2/17/2006]

16.12.9.6 OBJECTIVE: It is the position of the board that certified nurse practitioners, certified registered nurse anesthetists and clinical nurse specialists with prescriptive authority have an obligation to treat chronic pain and that a wide variety of medicines including controlled substances and other drugs may be prescribed after a thorough evaluation has been completed.
[16.12.9.6 NMAC - N, 2/17/2006; A, 11/20/2012]

16.12.9.7 DEFINITIONS:

A. “Acute Pain” means the normal, predicted physiological response to a noxious chemical or thermal or mechanical stimulus, typically associated with invasive procedures, trauma or disease and generally time limited.

B. “Addiction” is a neurobehavioral syndrome with genetic and environmental influences that results in psychological dependence on the use of substances for their psychic effects. It is characterized by behaviors that include one or more of the following: impaired control over drug use; compulsive use; continued use despite harm; and craving. Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for pain and should not by themselves be considered addiction.

C. “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 the purpose of the Pain Relief Act requirements, include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.

D. “Clinical expert” means a person who, by reason of specialized education or substantial relevant experience in pain management, has knowledge regarding current standards, practices and guidelines.

E. “Drug abuser” means a person who takes a drug or drugs for other than legitimate medical purposes.

F. “Nursing Facility” means a long term care facility in which the patient is a current fulltime resident and whose medications are solely administered and managed by the facility.

G. “Pain” means an unpleasant sensory and emotional experience associated with inflammation or with actual or potential tissue damage, or described in terms of such inflammation and damage, which could include acute, persistent or chronic pain.

H. “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.

I. “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 are used to support efforts in education, research, enforcement and abuse prevention.

J. “Therapeutic purpose” means the use of pharmaceutical and non-pharmaceutical treatments and the spectrum of available modalities that conforms substantially to accepted guidelines for pain management.

K. “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.

[16.12.9.7 NMAC - N, 2/17/2006; A, 11/20/2012; A, 9/12/2017]

16.12.9.8 RULES: The following rules shall be used by the board to determine whether an advanced practice nurse’s prescriptive practices are consistent with the appropriate treatment of pain.

A. The treatment of pain with various medicines or controlled substances is a legitimate nursing 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. Pain management for patients should include a contractual agreement, the use of drug screens prior to treatment with opiates and during the course of treatment to identify actual drugs being consumed and to compare with patients self-reports. If concerns about misuse are identified, the patient will be referred for appropriate consultation, and scheduled for re-evaluation at appropriate time intervals.

C. 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 advanced practice nurse shall complete a history and physical examination and include an evaluation of the patient’s psychological and pain status. The medical history shall include any previous history of significant pain, past history of alternate treatments for pain, potential for substances abuse, coexisting disease or medical conditions, and the presence of a medical indication and supporting diagnostic documentation or contra-indication against the use of controlled substances.

(2) An advanced practice nurse shall be familiar with and employ screening tools, as well as the spectrum of available modalities for therapeutic purposes, in the evaluation and management of pain. They shall consider an integrative approach to pain management specialists including but not limited to an acupuncturist, chiropractor, doctor of oriental medicine, exercise physiologist, massage therapist, pharmacist, physical therapist, psychiatrist, psychologist or other advanced practice registered nurse.

(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 should include a statement of the need for further testing, consultation, referral or use of other treatment modalities.

(4) If the patient’s pain relief plateaus on controlled substance analgesic(s), then the treatment plan should include an evaluation of continuing or tapering the controlled substance therapy.

(5) The practitioner shall provide education and discuss the risks and benefits of using controlled substances with the patient or surrogate or guardian, and shall document this in the record.

(6) Complete and accurate records of care provided and drugs prescribed shall be maintained. When controlled substances are prescribed, the name of the drug, quantity, and prescribed dosage should be recorded. Prescriptions for opioids shall include indications for use. For chronic non-cancer pain patients treated with controlled substance analgesic(s), the prescribing practitioner shall use a written agreement for treatment with the patient outlining patient responsibilities. As part of a written agreement, chronic non-cancer pain patients shall receive all chronic pain management prescriptions from one practitioner and one pharmacy whenever possible.

(7) The management of patients needing chronic pain control requires monitoring by the attending or the consulting practitioner. The practitioner shall periodically review the course of treatment for chronic non-cancer pain, the patient’s state of health, and any new information about the etiology of the chronic non-cancer pain at least every three months. In addition, a practitioner should consult, when indicated by the patient’s condition, with health care professionals who are experienced (by the length and type of their practice) in the area of chronic pain control; such professionals need not be those who specialize in pain control. Consultation should occur early in the course of long-term treatment, and at reasonable intervals during continued long-term treatment for assessment of benefit and need. Drug screening is expected and should be conducted when other factors suggest an elevated risk of misuse or diversion.

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

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

E. The board will review both over-prescription and under-prescription of pain medications using the same standard of patient protection as a guiding principle.

F. An advanced practice nurse 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 Nursing Practice Act, board rules and Pain Relief Act (24-2 D, 1 to 24-2 D, 6 NMSA 1978).

[16.12.9.8 NMAC - N, 2/17/2006, A, 11/20/2012; A, 9/12/2017]

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

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

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

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

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

E. An advanced practice nurse does not have to obtain and review a prescription monitoring report before prescribing, ordering, or dispensing a controlled substance in schedule II, III, IV or V:

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

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

- (1) receiving opioids from multiple prescribers;
- (2) receiving opioids and benzodiazepines concurrently;
- (3) receiving opioids for more than 12 consecutive weeks;
- (4) receiving more than one controlled substance analgesic;
- (5) receiving opioids totaling more than 90 morphine milligram equivalents per day;
- (6) exhibiting potential for abuse or misuse of opioids and other controlled substances, such

as over-utilization, requests to fill early, requests for specific opioids, requests to pay cash when insurance is available, receiving opioids from multiple pharmacies.

G. Upon recognizing any of the above conditions described in paragraph F, the practitioner, using professional judgement based on prevailing standards of practice, shall take action as appropriate to prevent,

mitigate, or resolve any potential problems or risks that may result in opioid misuse, abuse, or overdose. These steps may involve counseling the patient on known risks and realistic benefits of opioid therapy, prescription and training for naloxone, consultation with or referral to a pain management specialist, or offering or arranging treatment for opioid or substance use disorder. The practitioner shall document actions taken to prevent, mitigate, or resolve the potential problems or risks.

H. Practitioners licensed to practice in an opioid treatment program, as defined in 7.32.8 NMAC, shall review a prescription monitoring report upon a patient's initial enrollment into the opioid treatment program and every three months thereafter while prescribing, ordering, administering, or dispensing opioid treatment medications in schedule II, III, IV or V for the purpose of treating opioid use disorder. The practitioner shall document the receipt and review of a report in the patient's medical record.

[16.12.9.9 NMAC - N, 11/20/2012; A, 9/12/2017]

16.12.9.10 NON-CANCER PAIN MANAGEMENT CONTINUING EDUCATION: Any advanced practice registered nurse (APRN) with a drug enforcement agency (DEA) registration and licensure that permits prescribing opioids, shall obtain continuing education on the management of non-cancer pain. These practitioners shall be required to obtain five contact hours~~[CE of the 15 CE currently required every two years in pharmacology]~~ to include, but not limited to, a review of these rules (16.12.9 NMAC) for management of non-cancer pain, an understanding of the pharmacology and risks of controlled substances, a basic awareness of the problems of abuse, addiction and diversion, and awareness of state and federal regulations for the prescription of controlled substances. These five contact hours will be in lieu of five of the 15 contact hours currently required every two years in pharmacology.

[16.12.9.10 NMAC - N, 11/20/2012; A, 9/12/2017]

16.12.9.11 NOTIFICATION: The board shall notify the following persons of the Pain Relief Act and Part 9 of the New Mexico nursing board rule: 16.12.9 NMAC. The board shall notify the following persons of the Pain Relief Act and rules:

- (1) health care providers under its jurisdiction; and
- (2) a health care provider being investigated by the board in relation to the provider's pain

management services.

[16.12.9.11 NMAC - N, 11/20/2012]

16.12.9.12 ADVANCED PRACTICE NURSES, REGISTERED NURSES, AND LICENSED PRACTICAL NURSES TREATED WITH OPIATES: Advanced practice nurses, registered nurses, licensed practical nurses, certified hemodialysis technicians, and certified medication aides who have chronic pain and are being treated with opiates shall be evaluated by a pain clinic or, by a physician, CRNA, CNP, CNS pain specialist and must have clearance from their practitioner, before returning to or continuing in practice and must remain under the care of a physician, CRNA, CNP or CNS for as long as they remain on opiates and continue to practice. The treating physician, CRNA, CNP or CNS may, at her or his discretion, order a neuropsychological evaluation to help determine clearance for practice.

[16.12.9.12 NMAC - Rn & A, 16.12.9.9 NMAC; 11/20/2012; A, 01/19/2015]

HISTORY OF 16.12.9 NMAC: [RESERVED]