Prescription Monitoring Program State Profiles – New Mexico

Research current through December 2014.

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NEW MEXICO

http://www.rld.state.nm.us/boards/pharmacy_prescription_monitoring_program.aspx

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- Status of Program – operational
- Housing Entity – Board of Pharmacy
- Advisory Commission – no
- Funding – not specified in PMP statutes or regulations
- Drugs Monitored – Schedules II – V
- Who's Required to Report Dispensing Information – all dispensers, including pharmacies and dispensing practitioners; practitioners includes physicians, certified advance practice chiropractic physicians, clinical nurse specialists, certified nurse-midwives, prescribing psychologists, euthanasia technicians, pharmacists, pharmacist clinicians, or other persons licensed or certified to prescribe and administer drugs
- Exemptions from Reporting – hospital pharmacies for inpatient care; practitioner who administers such substance; wholesale distributors; clinics, urgent care or emergency departments dispensing no more than 12 dosage units to an individual patient within a 72 hour period
- Nonresident Pharmacies Required to Report – yes
- Veterinarians Required to Report – no
- Data Collection Interval – weekly/7 days
- Notice to Consumers – no
- Interstate Sharing – with other PMPs and authorized users in other states
- Persons Authorized to Receive Information – medical examiners; Department of Health; law enforcement and judicial/prosecutorial officials; licensing/regulatory boards; human services department regarding Medicaid recipients; patient or parent of minor child; physician assistants; prescribers; dispensers
- Delegates Allowed – yes
- De-identified Data Provided – yes
- Unsolicited Reports – to prescribers, pharmacists, law enforcement, and licensing boards
- Training Required – yes
- Mandatory Enrollment – yes; for dentists, health care practitioners, optometrists, osteopaths, pharmacists, podiatrists
- Mandatory Access – yes; multiple circumstances; see States that Require Prescribers and/or Dispensers to Access PMP in Certain Circumstances, compilation of statutes, on NAMSDL's website for further information

Code of New Mexico Rules (2014)
Title 16. Occupational and Professional Licensing
Chapter 5. Dentistry (Dentists, Dental Hygienists, etc.)
Part 57. Management of Pain with Controlled Substances

16.5.57. MANAGEMENT OF PAIN WITH CONTROLLED SUBSTANCES

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

[16.5.57.1 NMAC - N, 07-17-13]

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

[16.5.57.2 NMAC - N, 07-17-13]

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

[16.5.57.3 NMAC - N, 07-17-13]

16.5.57.4 DURATION: Permanent.

[16.5.57.4 NMAC - N, 07-17-13]

16.5.57.5 EFFECTIVE DATE: 07-17-13, unless a later date is cited at the end of a section.

[16.5.57.5 NMAC - N, 07-17-13]

16.5.57.6 OBJECTIVE: It is the position of the board that dentists have an obligation to treat pain, and that a wide variety of drugs including controlled substances may be prescribed for that purpose. When such controlled substances are used, they should be prescribed in adequate doses and for the appropriate length of time after a thorough dental evaluation has been completed.

[16.5.57.6 NMAC - N, 07-17-13]

16.5.57.7 DEFINITIONS:

A. “Addiction” means a neurobehavioral syndrome with genetic and environmental influences that result in psychological dependence on the use of substances for their psychic effects. It is characterized by behaviors that include one or more of the following: impaired control over drug use; compulsive use; continued use despite harm; and craving.

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

C. “Chronic pain” means pain that persists after reasonable dental efforts have been made to relieve the pain or its cause and that continues, either continously or episodically, for longer than three consective months “chronic pain” does not, for purpose of the Pain Relief Act requirements, include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.

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

E. “Drug abuser” means a person who takes a drugs or controlled substances for other than legitimate dental purposes.

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

G. “Physical dependence” means a state of adaptation that is manifested by a drug-specific withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, administration of an antagonist, or a combination of these.

H. “Prescription monitoring program (PMP)” means a centralized system to collect, monitor, and analyze electronically, for controlled substances, prescribing and dispensing data submitted by pharmacies and dispensing practitioners. The data is used to support efforts in education, research, enforcement, and abuse prevention.

I. “Therapeutic purpose” means the use of pharmaceutical and non-pharmaceutical dental treatment that conforms substantially to accepted guidelines for pain management.

J. “Tolerance” means a state of adaptation in which exposure to a drug induces changes that result in a diminution of one or more of the drug's effects over time.

[16.5.57.7 NMAC - N, 07-17-13]

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

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

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

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

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

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

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

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

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

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

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

C. The board will evaluate the quality of care on the following basis: appropriate diagnosis and evaluation; appropriate indication for the treatment prescribed; documented change or persistance of the recognized indication; and, follow-up evaluation with appropriate continuity of care. The board will judge the validity of prescribing based on the dentist's treatment of the patient and on available documentation, rather than on the quantity and chronicity of prescribing.

The goal is to control the patient's pain for its duration while effectively addressing other aspects of the patient's functioning, including physical, psychological, social, and work-related factors.

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

E. A dentist who appropirately prescribes controlled substances and who follows this section would be considered to be in compliance with this rule and not be subject to discipline by the board, unless there is some violation of the Dental Health Care Act or board rules.

[16.5.57.8 NMAC - N, 07-17-13]

16.5.57.9 DENTISTS TREATED WITH CONTROLLED SUBSTANCES: Dentists who have chronic pain and are being treated with controlled substances shall be evaluated by a pain clinic or, by an M.D. or D.O. pain specialist, and must have a complete, independent neuropshychological evaluation, as well as clearance from their physician, before returning to or continuing in practice. In addition, they must remain under the care of a physician for as long as they remain on controlled substances while continuing to practice.

[16.5.57.9 NMAC - N, 07-17-13]

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

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

B. A dentist shall before prescribing, ordering, administering or dispensing a controlled susbstance listed in Schedule II, III or IV, obtain a patient PMP report for the preceding 12 months when one of the following exists:

(1) the patient is a new patient of the dentist, in which situation a patient PMP report for the previous 12 months shall only be required when Schedules II, III and IV drugs are prescribed for a period greater than 10 days; and

(2) during the continuous use of controlled substances by established patients a PMP shall be requested a minimum of once every six months.

[16.5.57.10 NMAC - N, 07-17-13]

16.5.57.11 PAIN MANAGEMENT CONTINUING EDUCATION: This section applies to all New Mexico dentists who hold a federal drug enforcement administration registration to

prescribe controlled substances. Pursuant to the Pain Relief Act in order to ensure that all such health care practitioners safely prescribe for pain management and harm reduction, the following rules shall apply.

A. Immediate requirements effective July 17, 2013. Between July 17, 2013 and no later than June 30, 2014, all board licensees who hold a federal drug enforcement administration registration to prescribe controlled substances shall complete no less than three continuing dental or medical education hours in appropriate courses that shall include:

(1) an understanding of the pharmacology and risks on controlled substances,

(2) a basic awareness of the problems of abuse, addiction and diversion,

(3) awareness of state and federal regulations for the prescription of controlled substances,

(4) management of the treatment of pain, and

(5) courses may also include a review of this rule (16.5.57 NMAC); the applicability of such courses toward the fulfillment of the continuing education requirement is subject to board approval; dentists who have taken continuing education hours in these educational elements between July 1, 2012 and July 17, 2013, may apply those hours toward the required three continuing education hours described in this section.

B. Triennial requirements: Beginning with the July 1, 2014 triennial renewal date, all New Mexico dentist licensees who hold a federal drug enforcement administration registration shall be required to complete and submit three continuing education hours; these hours shall count toward the 60 continuing education hours required during each triennial cycle. Appropriate courses shall include all of the educational elements described in Subsection A of this section. The applicability of such courses toward fulfillment of the continuing education requirement is subject to board approval. These hours may be earned at any time during the three-year period immediately preceding the triennial renewal date. The three continuing education hours completed prior to July 1, 2014, as defined in Subsection A, may be included as part of the required continuing education hours in pain management in either the triennial cycle in which those hours are completed or the triennial cycle immediately thereafter.

C. Requirements for new licensees: All New Mexico dental licensees who hold a federal drug enforcement administration registration, whether or not the New Mexico license is the licensee's their first license, shall complete three continuing education hours in pain management during the first year of licensure. These three continuing education hours completed prior to the first renewal may be included as part of the hours required in Subsection B of this section.

D. The continuing education requirements of this section shall be included in the total continuing education requirements as set forth in 16.5.10 NMAC.

[16.5.57.11 NMAC - N, 07-17-13]

16.5.57.12 NOTIFICATION: In addition to the notice of procedures set forth in the State Rules Act Chapter 14, Article 4, NMSA 1978, the board shall separetely notify the following persons of the Pain Relief Act and Part 57 of the New Mexico dental board rule;

A. health care practitioner's under its jurisdiction; and

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

[16.5.57.12 NMAC - N, 07-17-13]

Code of New Mexico Rules (2014)
Title 16. Occupational and Professional Licensing
Chapter 10. Medicine and Surgery Practitioners
Part 14. Management of Pain with Controlled Substances

16.10.14. MANAGEMENT OF PAIN WITH CONTROLLED SUBSTANCES

16.10.14.1 ISSUING AGENCY: New Mexico Medical Board, hereafter called the board.

[16.10.14.1 NMAC - N, 1/20/03; A, 4/3/05]

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

[16.10.14.2 NMAC - N, 1/20/03; A, 9/28/12]

16.10.14.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to and in accordance with the Medical Practice Act, Sections 61-6-1 through 61-6-35 NMSA 1978 and the Pain Relief Act, Sections 24-2D-1 NMSA through 24-2D-6.

[16.10.14.3 NMAC - N, 1/20/03; A, 9/28/12]

16.10.14.4 DURATION: Permanent

[16.10.14.4 NMAC - N, 1/20/03]

16.10.14.5 EFFECTIVE DATE: January 20, 2003, unless a later date is cited at the end of a section.

[16.10.14.5 NMAC - N, 1/20/03]

16.10.14.6 OBJECTIVE: It is the position of the board that practitioners have an obligation to treat chronic pain and that a wide variety of medicines including controlled substances and other drugs may be prescribed for that purpose. When such medicines and drugs are used, they should be prescribed in adequate doses and for appropriate lengths of time after a thorough medical evaluation has been completed.

[16.10.14.6 NMAC - N, 1/20/03; A, 4/3/05]

16.10.14.7 DEFINITIONS:

A. “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.

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

C. “Chronic pain” means pain that persists after reasonable medical efforts have been made to relieve the pain or its cause and that continues, either continuously or episodically, for longer than three consecutive months. “Chronic pain” does not, for purpose of the Pain Relief Act requirements, include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.

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

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

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

G. “Physical dependence” means a state of adaptation that is manifested by a drug-specific withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, administration of an antagonist, or a combination of these.

H. “Prescription monitoring program” 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.

I. “Therapeutic purpose” means the use of pharmaceutical and non-pharmaceutical medical treatment that conforms substantially to accepted guidelines for pain management.

J. “Tolerance” means a state of adaptation in which exposure to a drug induces changes that result in a diminution of one or more of the drug's effects over time.

[16.10.14.7 NMAC - N, 1/20/03; A, 9/28/12]

16.10.14.8 REGULATIONS: The following regulations shall be used by the board to determine whether a health care practitioner's prescriptive practices are consistent with the appropriate treatment of pain.

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

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

(1) A practitioner shall complete a physical examination and include an evaluation of the patient's psychological and pain status. The medical history shall include any previous history of significant pain, past history of alternate treatments for pain, potential for substance abuse, coexisting disease or medical conditions, and the presence of a medical indication or contra-indication against the use of controlled substances.

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

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

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

(5) Complete and accurate records of care provided and drugs prescribed shall be maintained. When controlled substances are prescribed, the name of the drug, quantity, prescribed dosage and number of refills authorized shall be recorded. Prescriptions for opioids shall include indications for use. For chronic 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 pain patients shall receive all chronic pain management prescriptions from one practitioner and one pharmacy whenever possible.

(6) The management of patients needing chronic pain control requires monitoring by the attending or the consulting practitioner. The practitioner shall periodically review the course of treatment for chronic pain, the patient's state of health, and any new information about the etiology of the chronic pain at least every six months. In addition, a practitioner shall consult, when indicated by the patient's condition, with health care professionals who are experienced (by the length and type of their practice) in the area of chronic pain control; such professionals need not be those who specialize in pain control.

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

C. Pain management for patients with substance use disorders shall include:

(1) a contractual agreement;

(2) appropriate consultation;

(3) drug screening when other factors suggest an elevated risk of misuse or diversion; and

(4) a schedule for re-evaluation at appropriate time intervals at least every six months.

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

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

F. A practitioner who appropriately prescribes controlled substances and who follows this section would be considered to be in compliance with this rule and not be subject to discipline by the board, unless there is some violation of the Medical Practice Act or board rules.

[16.10.14.8 NMAC - N, 1/20/03; A, 4/3/05; A, 9/28/12; A, 2/14/13]

16.10.14.9 PHYSICIAN, PHYSICIAN ASSISTANTS AND ANESTHESIOLOGIST ASSISTANTS TREATED WITH OPIATES: Physicians, physician assistants or anesthesiologist assistants who have chronic pain and are being treated with opiates shall be evaluated by a pain clinic or, by an M.D. or D.O. pain specialist, and must have a complete, independent neuropsychological evaluation, as well as clearance from their physician, before returning to or continuing in practice. In addition, they must remain under the care of a physician for as long as they remain on opiates while continuing to practice.

[16.10.14.9 NMAC - N, 4/3/05; A, 9/28/12]

16.10.14.10 PRESCRIPTION MONITORING PROGRAM (PMP) REQUIREMENTS: The intent of the New Mexico medical board in requiring participation in the PMP is to assist

practitioners in balancing the safe use of controlled substances with the need to impede illegal and harmful activities involving these pharmaceuticals.

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

B. A health care practitioner shall, before prescribing, ordering, administering or dispensing a controlled substance listed in Schedule II, III or IV, obtain a patient PMP report for the preceding 12 months when one of the following situations exists:

(1) the patient is a new patient of the practitioner, in which situation a patient PMP report for the previous 12 months shall only be required when Schedules II, III, and IV drugs are prescribed for a period greater than 10 days; and

(2) during the continuous use of opioids by established patients a PMP shall be requested and reviewed a minimum of once every six months.

[16.10.14.10 NMAC - N, 9/28/12; A, 2/14/13]

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

A. Immediate requirements effective November 1, 2012.Between November 1, 2012 and no later than June 30, 2014, all New Mexico medical board licensees who hold a federal drug enforcement administration registration and licensure to prescribe opioids, shall complete no less than five continuing medical education hours in appropriate courses that shall include:

(1) an understanding of the pharmacology and risks of controlled substances,

(2) a basic awareness of the problems of abuse, addiction and diversion,

(3) awareness of state and federal regulations for the prescription of controlled substances,

(4) management of the treatment of pain, and

(5) courses may also include a review of this rule (16.10.14 NMAC) the applicability of such courses toward fulfillment of the continuing medical education requirement is subject to medical board approval. Practitioners who have taken continuing medical education hours in these educational elements between July 1, 2011 and November 1, 2012, may apply those hours toward the required five continuing medical education hours described in this subsection.

B. Triennial requirements for physicians.Beginning with the July 1, 2014 triennial renewal date, as part of the 75 continuing medical education hours required during each triennial renewal cycle, all New Mexico medical board physician licensees who hold a federal drug enforcement administration registration and license to prescribe opioids, shall be required to complete and submit five continuing medical education hours. Appropriate courses shall include all of the educational elements described in Subsection A of this section. The applicability of such courses toward fulfillment of the continuing medical education requirement is subject to medical board approval. These hours may be earned at any time during the three-year period immediately preceding the triennial renewal date. The five continuing medical education hours completed prior to July 1, 2014, as defined in Subsection A above, may be included as part of the required continuing medical education hours in pain management in either the triennial cycle in which these hours are completed, or the triennial cycle immediately thereafter.

C. Biennial requirements for physician assistants.Beginning with the July 1, 2014 biennial renewal date, in addition to the NCCPA certification required during each biennial renewal cycle pursuant to 16.10.15.16 NMAC, all New Mexico medical board physician assistant licensees who hold a federal drug enforcement administration registration and license to prescribe opioids, shall be required to complete and submit three continuing medical education hours. Appropriate courses shall include all of the educational elements described in Subsection A of this section. The applicability of such courses toward fulfillment of the continuing medical education requirement is subject to medical board approval. These hours may be earned at any time during the two-year period immediately preceding the renewal date. Three of the five continuing medical education hours completed prior to July 1, 2014, as defined in Subsection A above, may be included as part of these required three continuing medical education hours in pain management in either the biennial cycle in which these hours are completed, or the biennial cycle immediately thereafter. Any or all three of these hours may also be applied to satisfy NCCPA requirements for certification.

D. Biennial requirements for anesthesiologist assistants.Beginning with the July 1, 2014 biennial renewal date, all New Mexico medical board anesthesiologist assistant licensees who hold a federal drug enforcement administration registration and license to prescribe opioids, shall be required to complete and submit three continuing medical education hours. Appropriate courses shall include all of the educational elements described in Subsection A of this section. The applicability of such courses toward fulfillment of the continuing medical education requirement is subject to medical board approval. These hours may be earned at any time during the two-year period immediately preceding the renewal date. Three of the five continuing medical education hours completed prior to July 1, 2014, as defined in Subsection A above, may be included as part of these required three continuing medical education hours in pain management in either the biennial cycle in which these hours are completed, or the biennial cycle immediately thereafter.

E. Requirements for new licensees.All New Mexico medical board licensees, whether or not the New Mexico license is their first license, who hold a federal drug enforcement administration registration and license to prescribe opioids, shall complete five continuing medical education hours in pain management during the first year of licensure. These five continuing medical

education hours completed prior to the first renewal may be included as part of the hours required in Subsections B, C or D, above.

F. The continuing medical education requirements of this section may be included in the total continuing medical education requirements set forth at 16.10.4.8 NMAC, 16.10.15.16 NMAC and 16.10.19.15 NMAC.

[16.10.14.11 NMAC - N, 9/28/12; A, 2/14/13]

16.10.14.12 NOTIFICATION: In addition to the notice of procedures set forth in the State Rules Act, Section 14-4-1 et seq NMSA 1978, the board shall separately notify the following persons of the Pain Relief Act and Part 14 of the New Mexico medical board rule, 16.10.14 NMAC;

A. health care practitioners under its jurisdiction; and

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

[16.10.14.12 NMAC - N, 9/28/12]

Code of New Mexico Rules (2014)
Title 16. Occupational and Professional Licensing
Chapter 11. Midwives
Part 2. Certified Nurse Midwives

16.11.2. CERTIFIED NURSE MIDWIVES

16.11.2.1 ISSUING AGENCY: New Mexico Department of Health.

[16.11.2.1 NMAC - Rp, 16.11.2.1 NMAC, 8/30/13]

16.11.2.2 SCOPE: This rule applies to any person seeking to practice or currently practicing as a certified nurse-midwife in the state of New Mexico.

[16.11.2.2 NMAC - Rp, 16.11.2.2 NMAC, 8/30/13]

16.11.2.3 STATUTORY AUTHORITY: This rule is authorized by Sections 9-7-6 (E), 24-1-3 (R) and 24-1-4.1 NMSA 1978.

[16.11.2.3 NMAC - Rp, 16.11.2.3 NMAC, 8/30/13]

16.11.2.4 DURATION: Permanent.

[16.11.2.4 NMAC - Rp, 16.11.2.4 NMAC, 8/30/13]

16.11.2.5 EFFECTIVE DATE: 8/30/13, unless a later date is cited at the end of a section.

[16.11.2.5 NMAC - Rp, 16.11.2.5 NMAC, 8/30/13]

16.11.2.6 OBJECTIVE: This rule governs the licensure and practice of certified nurse-midwives (CNMs) in New Mexico.

[16.11.2.6 NMAC - Rp, 16.11.2.6 NMAC, 8/30/13]

16.11.2.7 DEFINITIONS:

A. “ACNM‘ means the American college of nurse-midwives.

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 opiate or opioid therapy for pain and should not by themselves be considered addiction.

C. “Board‘ means the certified nurse-midwifery advisory board established under these rules.

D. “Certified nurse-midwife (CNM)‘ means an individual educated in the two disciplines of nursing and midwifery, who is certified by the ACNM or its designee.

E. “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. For purposes of this rule, chronic pain does not 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.

F. “CNM license‘ means a document issued by the department identifying a legal privilege and authorization to practice within the scope of this rule.

G. “Contact hour‘ means 50-60 minutes of an organized learning experience or two hours of planned and supervised clinical practice relevant to CNM practice, approved by one of the following:

(1) accreditation council for continuing medical education (ACCME);

(2) ACNM;

(3) American college of obstetricians and gynecologists (ACOG);

(4) American academy of physician assistants (AAPA);

(5) American academy of nurse practitioners (AANP);

(6) nurse practitioners in women's health (NPWH); or

(7) other clinician-level continuing education accrediting agencies approved by the department.

H. “Continuance‘ means the adjournment or postponement of a trial or other proceeding to a future date.

I. “Controlled substance” means any drug or therapeutic agent with a potential for abuse or addiction listed in Schedules I through V of the Controlled Substances Act, or rules adopted thereto, which is commonly understood to include narcotics.

J. “Dangerous drug‘ means a prescription drug other than a controlled substance which has been determined by law to be unsafe for self-administration and which are enumerated in the New Mexico Drug, Device and Cosmetic Act (NMSA 1978, Section 26-1).

K. “Department‘ means the department of health.

L. “Division‘ means the public health division.

M. “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.

N. “Peer review‘ means the assessment and evaluation of CNM practice by other CNMs or other health care providers to measure compliance with established institutional or legal standards. In the peer review process, a CNM's practice undergoes scrutiny for the purpose of professional self-regulation. All participants in the peer review process have the opportunity to enhance professional knowledge and skills.

O. “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.

P. “Prescription monitoring program (PMP)” means a centralized system within the New Mexico board of pharmacy to collect, monitor, and analyze electronically 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.

Q. “Primary care‘ means the provision of integrated, accessible health care services by clinicians who are accountable for addressing the large majority of presenting health care needs, developing sustained partnerships with clients, and practicing within the context of family and community.

R. “Quality assurance‘ means monitoring structural, procedural and outcome indicators as they relate to accepted standards.

S. “Quality improvement‘ means modifying the process for providing care in order to improve outcomes. Modifications are based upon the measurement of parameters such as evidence-based best practices, patient satisfaction, clinical outcomes, population-specific care, appropriate use of technology and resources, and access to care.

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

U. “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.

V. “Valid CNM-client relationship‘ means a relationship that assures safe prescribing of a dangerous drug by a CNM to an individual. Such a relationship includes:

(1) the CNM has sufficient information to assure that the dangerous drug is indicated and necessary for treatment of a condition;

(2) the CNM has sufficient information to assure that the dangerous drug is not contraindicated for the individual;

(3) the CNM provides the individual with appropriate information on the proper dosage, route, frequency and duration of the drug treatment;

(4) the CNM informs the individual of possible untoward effects and side effects of the treatment;

(5) the CNM provides for care in the event of an untoward effect or a side effect that requires care;

(6) the CNM provides for client education regarding the condition and its treatment to secure treatment compliance and preventive self-care;

(7) the CNM provides for appropriate follow-up care, including further testing, treatment and education, as appropriate; and

(8) the CNM documents, at minimum, the indication, drug and dosage in a health record for the individual.

[16.11.2.7 NMAC - Rp, 16.11.2.7 NMAC, 8/30/13]

16.11.2.8 DOCUMENTS INCORPORATED BY REFERENCE:

A. ACNM “core competencies for basic midwifery practice‘.

B. ACNM “standards for the practice of midwifery‘.

C. ACNM handbook: “homebirth practice‘.

[16.11.2.8 NMAC - Rp, 16.11.2.8 NMAC, 8/30/13]

16.11.2.9 LICENSURE:

A. Licensure requirements: A CNM licensed in New Mexico shall hold a license that meets the New Mexico board of nursing's requirement to practice as a registered nurse in New Mexico and shall hold current certification by ACNM or its designee. The department may deny licensure to a CNM whose midwifery or nursing license has been subject to disciplinary action in any jurisdiction. A CNM license is not transferable.

B. Initial licensure.

(1) An applicant for licensure to practice as a CNM in New Mexico shall submit to the department:

(a) a completed application;

(b) proof of holding a valid license that meets the New Mexico board of nursing's requirement to practice as a registered nurse in New Mexico;

(c) proof of current certification by ACNM or its designee;

(d) the fee designated in Subsection E of this section.

(2) An initial CNM license may be issued at any time upon submission and verification of the materials required in Paragraph (1) of this subsection and shall expire on the expiration date of the license that satisfies the New Mexico board of nursing's requirement to practice as a registered nurse in New Mexico. A CNM license shall be valid for a maximum of two years.

C. Licensure renewal.

(1) A CNM's renewed license shall expire on the date of expiration of the license that satisfies the New Mexico board of nursing's requirements for practicing as a registered nurse in New Mexico.

(2) An applicant for licensure renewal shall submit to the department:

(a) a completed application postmarked or electronically submitted at least 20 calendar days before the expiration of her CNM license;

(b) proof of holding a valid license that meets the requirement of the New Mexico board of nursing to practice as a registered nurse in New Mexico for the period the renewed CNM license will cover;

(c) proof of current certification by American midwifery certification board (AMCB)

or its designee;

(d) proof of having met the continuing quality assurance and continuing education requirements in Paragraphs (3) and (4) of this subsection; and

(e) the fee designated in Subsection E of this section; an additional fee shall be charged for applications received later than 20 calendar days before the expiration date.

(3) Continuing education: proof of a minimum of 30 contact hours completed during the two years preceding renewal is required for license renewal.

(a) 15 of the contact hours shall be pharmacology-related. As part of the pharmacology-related contact hours, a CNM who holds a CNM license on August 30, 2013, shall submit, with her next

license renewal application, proof of completing a minimum of five contact hours on the following topics:

(i) the CNM rule as it applies to management of chronic pain,

(ii) the pharmacology and risks of controlled substances,

(iii) the problems of abuse and addiction, or

(iv) state and federal regulations for the prescription of controlled substances; with each subsequent license renewal application, a CNM shall submit proof of completing a minimum of two contact hours on the above topics.

(b) The following options, subject to audit and approval by the department, may be accepted in place of continuing education contact hours:

(i) preparation and presentation of a nurse-midwifery topic that has received contact hour approval by any of the organizations listed in Subsection E of 16.11.2.7 NMAC, will count for twice the number of contact hours for which the presentation is approved; the same presentation cannot be credited more than once;

(ii) sole or primary authorship of one nurse-midwifery related article published in a department-approved professional medical or midwifery journal per licensure period may be accepted in place of 10 contact hours;

(iii) completion of a formal university or college course directly related to nurse-midwifery practice; each university or college unit shall be credited as 15 hours of continuing education; and

(iv) acting as primary preceptor for a nurse-midwifery or certified midwifery student; each 10 hours of precepting shall be credited as one continuing education hour; verification shall be provided by an accreditation commission for midwifery education (ACME) accredited nurse-midwifery education program. This option shall not be accepted in place of pharmacology-related contact hours.

(4) Quality management: documentation of participation during the preceding two years in a system of quality management meeting the approval of the department is required for license renewal. Quality management includes peer review, quality assurance and quality improvement as defined in 16.11.2.7 NMAC.

D. Reinstatement of a lapsed CNM license.

(1) The requirements for reinstatement of a CNM license that has lapsed within the four previous years are the same as those for license renewal, listed in Subparagraphs (a) through (e) of Paragraph (2) of Subsection C of this section, except that the application may be submitted at

any time within the four years of the license's lapsing, and the fee designated in Subsection E of this section.

(2) An applicant for CNM licensure whose license has lapsed more than four years prior may apply for license reinstatement or may apply for a new CNM license.

E. Fees: the department shall charge applicants the following fees for licensure services:

(1) two hundred dollars ($200) for initial licensure;

(2) one hundred dollars ($100) for license renewal;

(3) fifty dollars ($50.00) additional for renewing a license when the complete application is not postmarked or electronically submitted at least 20 calendar days before the current license's expiration date;

(4) fifty dollars ($50.00) additional for reinstatement of a lapsed license;

(5) twenty dollars (20.00) for verifying licenses by FAX or letter;

(6) twenty dollars ($20.00) for replacing a lost license card; and

(7) thirty dollars ($30.00) for replacing a license certificate (8 1/2‘ x 11” size).

F. Change of address: a CNM shall report a change of address or phone number to the department within 30 days.

[16.11.2.9 NMAC - Rp, 16.11.2.9 NMAC, 8/30/13]

16.11.2.10 PRACTICE OF THE CERTIFIED NURSE-MIDWIFE:

A. Scope of practice: Practice by CNMs encompasses independently providing a full range of primary health care services for women from adolescence to beyond menopause. These services include primary care, gynecologic and family planning services, pre-conception care, care during pregnancy, childbirth and the postpartum period, care of the normal newborn, and treatment of male partners for sexually transmitted infections. Midwives provide initial and ongoing comprehensive assessment, diagnosis and treatment. They conduct physical examinations; independently prescribe, distribute and administer dangerous drugs, devices and contraceptive methods, and controlled substances in Schedules II-V of the Controlled Substances Act (NMSA 1978, Section 30-31-1); admit, manage and discharge patients; order and interpret laboratory and diagnostic tests; and order the use of medical devices. Midwifery care also includes health promotion, disease prevention, and individualized wellness education and counseling. These services are provided in partnership with women and families in diverse settings such as ambulatory care clinics, private offices, community and public health systems, homes, hospitals and birth centers. A CNM practices within a health care system that provides for consultation,

collaborative management or referral as indicated by the health status of the client. A CNM practices in accordance with the ACNM "standards for the practice of midwifery'. A CNM who expands beyond the ACNM "core competencies" to incorporate new procedures that improve care for women and their families shall comply with the guidelines set out in the ACNM "standards for the practice of midwifery', standard VIII. Practice guidelines for home births should be informed by the "ACNM home birth practice handbook".

B. Prescriptive authority.

(1) Dangerous drugs: A CNM who prescribes distributes or administers a dangerous drug or device shall do so in accordance with the New Mexico Drug, Device and Cosmetic Act (NMSA 1978, Section 26-1).

(2) Controlled substances.

(a) A CNM shall not prescribe nor distribute controlled substances in Schedule I of the Controlled Substances Act (NMSA 1978, Section 26-1).

(b) A CNM shall not prescribe, distribute or administer controlled substances in Schedules II-V of the Controlled Substances Act unless she is registered with the New Mexico board of pharmacy and the United States drug enforcement administration to prescribe, distribute and administer controlled substances.

(c) A CNM who prescribes, distributes or administers a controlled substance in Schedules II-V of the Controlled Substances Act shall do so in accordance with the Controlled Substances Act (NMSA 1978, Section 26-1).

(d) An individual employed as a CNM by the United States military, the United States veterans administration or the United States public health service and operating in the official capacity of that employment who is prescribing, distributing or administering controlled substances under that facility's United States drug enforcement administration registration is exempt from the Subparagraphs (a), (b) and (c) of Paragraph (2) of this subsection.

(3) Prescription pads: a CNM may prescribe by telephone, by written prescription or by e-mail. A CNM prescription shall have the CNM's name, office address and telephone number printed on it. In the event that a CNM is writing a prescription printed with the names of more than one CNM, the name of the CNM writing the individual prescription shall be indicated. The name and address of the client, the date of the prescription, the name and quantity of the drug prescribed, and directions for use shall be included on a prescription.

(4) Labeling: when distributing a drug, a CNM shall label it with the client's name, the date, instructions for use, and the CNM's name, address and telephone number.

(5) Except in emergencies, CNMs shall not prescribe controlled substances for themselves, members of their households or immediate family members.

C. Guidelines for management of chronic pain with controlled substances.The treatment of chronic pain with various modalities, including controlled substances such as opiates and opioids, is a legitimate practice when done in the usual course of CNM practice. The goal when treating chronic pain is to reduce or eliminate pain and also to avoid development of or contribution to addiction, drug abuse and overdosing. Effective dosages should be prescribed, with both under- and over-prescribing to be avoided, using patient protection as a guiding principle. The CNM should provide control of 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. A CNM may treat patients with addiction, physical dependence or tolerance who have legitimate pain, however such patients require very close monitoring and precise documentation.

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

(2) When prescribing, dispensing or administering controlled substances for management of chronic pain, a CNM shall:

(a) obtain a PMP report for the patient covering the preceding 12 months from the New Mexico board of pharmacy, or another state's report where applicable and available;

(b) complete a history and physical examination and include an evaluation of the patient's psychological and pain status, any previous history of significant pain, past history of alternate treatments for pain, potential for substance abuse, coexisting disease or medical conditions, and the presence of medical indications or contra-indications related to controlled substances;

(c) 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, and consider an integrative approach to pain management in collaboration with other care providers, including but not limited to acupuncturists, chiropractors, doctors of oriental medicine, exercise physiologists, massage therapists, pharmacists, physical therapists, psychiatrists or psychologists;

(d) develop a written individual treatment plan taking age, gender and culture into consideration, with stated objectives by which treatment can be evaluated, such as degree of pain relief, improved physical and psychological function, or other accepted measures, and including any need for further testing, consultation, referral or use of other treatment modalities as appropriate;

(e) discuss the risks and benefits of using controlled substances with the patient or legal guardian and document this discussion in the record;

(f) make a written agreement with the patient or legal guardian outlining patient responsibilities, including that the chronic pain patient will receive all chronic pain management prescriptions from one practitioner and one pharmacy whenever possible;

(g) maintain complete and accurate records of care provided and drugs prescribed, including the indications for use, the name of the drug, quantity, prescribed dosage and number of refills authorized;

(h) when indicated by the patient's condition, consult with health care professionals who are experienced in the area of the chronic pain, though not necessarily specialists in pain control, both early in the course of long-term treatment and at least every six months;

(i) when treating patients with drug addiction or physical dependence, use drug screening prior to and during the course of treatment to identify actual drugs being consumed and to compare with patients' self reports (this should be included in the written agreement, see Subparagraph (f) above);

(j) note the following possible indications of drug abuse by a patient and take appropriate steps to further investigate and to avoid contributing to drug abuse; such steps may include termination of treatment; some of this information may be available only though PMP reports;

(i) receiving controlled substances from multiple prescribers;

(ii) receiving controlled substances for more than 12 consecutive weeks;

(iii) receiving more than one controlled substance analgesic;

(iv) receiving a new prescription for any long-acting controlled substance analgesic formulation, including oral or transdermal dosage forms or methadone;

(v) overutilization, early refills;

(vi) appearing overly sedated or intoxicated upon presentation; or

(vii) an unfamiliar patient requesting a controlled substance by specific name, street name, color, or identifying marks.

D. Other rules: a CNM shall fulfill the requirements of all relevant department rules including:

(1) “Bureau of Vital Records and Health Statistics,” 7.2.2 NMAC;

(2) “Control of Disease and Conditions of Public Health Significance,” 7.4.3 NMAC;

(3) “Newborn Genetic Screening,” 7.30.6 NMAC;

(4) “Prevention of Infant Blindness,” 7.30.7 NMAC.

E. Limitation of physician liability: any consultative relationship between a CNM and a physician shall not by itself provide the basis for finding a physician liable for any acts or omissions of the CNM.

[16.11.2.10 NMAC - Rp, 16.11.2.10 NMAC, 8/30/13]

16.11.2.11 LICENSE DENIAL, SUSPENSION OR REVOCATION; DISCIPLINARY ACTION: The department may deny, revoke or suspend any license held or applied for or reprimand or place a license on probation on the grounds of incompetence, unprofessional conduct or other grounds listed in this section, pursuant to NMSA 1978, Section 24-1-3(R).

A. Grounds for action.

(1) Incompetence. A CNM who fails to possess and apply the knowledge, skill or care that is ordinarily possessed and exercised by CNMs or as defined by the ACNM "core competencies for basic midwifery practice" is considered incompetent. Charges of incompetence may be based upon a single act of incompetence or upon a course of conduct or series of acts or omissions which extend over a period of time and which, taken as a whole, demonstrate incompetence. Conduct of such a character that it could have resulted in harm to the client or to the public from the act or omission or series of acts or omissions constitutes incompetence, whether or not actual harm resulted.

(2) Unprofessional conduct. For purposes of this rule "unprofessional conduct" includes, but is not limited to, the following:

(a) verbally or physically abusing a client;

(b) engaging in sexual contact with or toward a client;

(c) abandonment of a client;

(d) engaging in the practice of midwifery when judgment or physical ability is impaired by alcohol or drugs or controlled substances;

(e) practice which is beyond the scope of licensure;

(f) dissemination of a client's health information or treatment plan to individuals not entitled to such information and where such information is protected by law from disclosure;

(g) falsifying or altering client records for the purpose of reflecting incorrect or incomplete information;

(h) obtaining or attempting to obtain any fee for client services for one's self or for another through fraud, misrepresentation, or deceit;

(i) aiding, abetting, assisting or hiring an individual to violate any duly promulgated rule of the department;

(j) failure to follow established procedure and documentation regarding controlled substances;

(k) failure to make or keep accurate, intelligible entries in records as required by the ACNM "standards for the practice of midwifery';

(l) obtaining or attempting to obtain a license to practice certified nurse midwifery for one's self or for another through fraud, deceit, misrepresentation or any other act of dishonesty in any phase of the licensure by examination or endorsement process, or relicensure process;

(m) practicing midwifery in New Mexico without a valid New Mexico license or permit, or aiding, abetting or assisting another to practice midwifery without a valid New Mexico license;

(n) delegation of midwifery assessment, evaluation, judgment or medication administration to non-licensed persons; or

(o) failure to provide information requested by the department pursuant to this rule within 10 business days of receiving the request.

(3) Failure to comply with the New Mexico Parental Responsibility Act, Section 40-5A-1 through 40-5A-13, NMSA 1978.

(4) Dereliction of any duty imposed by law.

(5) Conviction of a felony.

(6) Failure to report in writing to the division, a complaint or claim that has been made against the CNM's practice as a registered, certified or licensed health care provider in any jurisdiction, including as a registered nurse. Such notification shall include the credentialing jurisdiction and the location, time and content of the complaint or claim. It shall be made within 10 business days of the CNM becoming aware of the complaint or claim.

(7) Conduct resulting in the suspension or revocation of a registration, license or certification to perform as a health care provider.

(8) Failure to report a midwife or CNM who appears to have violated the rule for the practice of licensed or certified nurse midwifery. Anyone reporting an alleged violation of this rule shall be immune from liability unless the person acted in bad faith or with malicious purpose.

(9) Violation of any of the provisions of this rule.

B. Disciplinary proceedings: disciplinary proceedings shall be conducted in accordance with the Uniform Licensing Act (ULA) NMSA 1978 Section 61-1-1 through 61-1-31. Disciplinary

proceedings related to a CNM's treatment of a patient for chronic pain with a controlled substance shall be conducted in accordance with the Pain Relief Act, NMSA 1978, Section 24-2D-1 through 24-2D-6, in addition to this rule.

(1) Filing of a complaint.

(a) A written complaint must be filed with the division before a disciplinary proceeding can be initiated.

(i) A complaint is an allegation of (a) wrongful act(s) or omission(s).

(ii) A complaint may include knowledge of a judgment or settlement against a licensee.

(b) A written complaint may be filed by any person, including a member of the board.

(2) Investigation of a complaint.

(a) All complaints alleging a violation of the rules adopted by the department shall be investigated to determine whether a violation of applicable law or rule has occurred.

(b) The investigation may result in a notice of contemplated action (NCA) being issued by the department if a violation exists or a dismissal of the complaint because no actionable violation exists.

(3) Notice of contemplated action.

(a) The NCA shall be drafted by the department.

(b) The director of the division, or his designee shall sign all NCAs.

(c) The NCAs shall contain written information in accordance with the requirements of the ULA and shall be served on the licensee in accordance with the ULA.

(4) Request for a hearing, notice of hearing and request for continuance.

(a) Every licensee shall be afforded notice and an opportunity to be heard.

(b) Within 20 days of receiving the NCA, a licensee may request a hearing in writing by certified mail. The department shall notify the licensee of the time and place of hearing within 20 days of receipt of the request. The hearing shall be held no more than 60 nor less than 15 days from the date of service of the notice of hearing. However, if the ULA designates time requirements different from the above stated time requirements, the ULA time requirements shall prevail. The department shall notify the licensee of these prevailing time requirements when it sends the NCA.

(c) Once a hearing has been scheduled, if a request for a continuance is made it shall be presented to the department's hearing officer, in writing, at least 10 days prior to the scheduled hearing. The hearing officer may approve or deny the request.

(d) If a person fails to appear after requesting a hearing, the department may proceed to consider the matter and make a decision.

(e) If no request for a hearing is made within the time and manner stated in the NCA, the department may take the action contemplated in the NCA. Such action shall be final.

(5) Administrative hearing.

(a) All hearings shall be conducted by a hearing officer designated by the secretary or authorized representative of the department. The hearing officer shall have authority to rule on all nondispositive motions.

(b) All hearings before the department shall be conducted in the same manner as a hearing in a court of law with the exception that the rules of evidence may be relaxed in the hearing pursuant to the ULA.

(i) Hearsay evidence is admissible if it is of a kind commonly relied upon by reasonable prudent people in the conduct of serious affairs.

(ii) Disciplinary action against a CNM license must not be based solely on hearsay evidence.

(c) The hearing officer may take testimony, examine witnesses and direct a continuance of any case.

(d) The hearing officer shall have the power to issue subpoenas to compel the attendance of witnesses or the production of books, documents or records pertinent to the matter of a case before the department.

(e) The hearing officer shall issue a report and recommended finding to the department secretary.

(f) Decision of the department: the secretary of the department shall render a final administrative determination after reviewing the report and recommended findings issued by the hearing officer. Copies of the written decision shall be mailed via certified mail to the licensee in accordance with the ULA, placed in the CNM's licensure file. A copy of the written decision shall be mailed to the authority(ies) that license(s) the CNM as a registered nurse if the decision is to uphold the disciplinary action.

C. Reinstatement of a suspended or revoked license.

(1) Individuals who request reinstatement of their license or who request that their probation be lifted or altered shall provide the department with substantial evidence to support their request.

This evidence must be in the form of notarized written reports or sworn written testimony from individuals who have personal knowledge of the individual's activities and progress during the period of probation, suspension or revocation.

(2) Requests for reinstatement of a revoked license shall not be considered by the department prior to the expiration of one year from the date of the order of revocation. The date of the order of revocation or suspension is the controlling date, unless otherwise specified in the order.

(3) Requests for reinstatement of a suspended license shall be considered at such time as provided by the department in the order of suspension.

(4) Reinstatement of a suspended license requires proof of meeting the renewal requirements as set forth in this rule, any remedial education, supervised practice or other condition specified in the order for suspension required by the department and payment of the reinstatement of current or lapsed license fee.

(5) Reinstatement of a revoked license requires proof of meeting the renewal requirements set forth in this rule and payment of the reinstatement of current or lapsed license fee.

[16.11.2.11 NMAC - Rp, 16.11.2.11 NMAC, 8/30/13]

16.11.2.12 ADVISORY BOARD: The department shall appoint a CNM advisory board to make recommendations to the department regarding the regulation of CNMs.

A. The board may be comprised of:

(1) three New Mexico licensed CNMs, at least one of whom is actively practicing midwifery;

(2) one New Mexico licensed midwife who is actively practicing midwifery;

(3) two consumer members;

(4) one actively practicing board certified obstetrician-gynecologist physician; and

(5) one representative of the department.

B. Board members other than the department representative shall be appointed for staggered terms up to three years in length. Board members shall serve on a voluntary basis without compensation. They shall not serve for more than two consecutive terms. The department representative shall not be subject to term limits.

C. The board shall meet a minimum of two times a year when called by the director of the division.

D. The board members may submit requests for reimbursement of in-state travel and per diem for attending board meetings in accordance with department of finance administration rules.

E. Any member failing to attend two consecutive board meetings without good cause and an excused absence prior to the meetings shall be deemed to have resigned from the board.

[16.11.2.12 NMAC - Rp, 16.11.2.12 NMAC, 8/30/13]

16.11.2.13 SEVERABILITY: If any part or application of these rules is determined to be illegal, the remainder of these rules shall not be affected.

[16.11.2.13 NMAC - Rp, 16.11.2.13 NMAC, 8/30/13]

Code of New Mexico Rules (2014)
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. MANAGEMENT OF CHRONIC PAIN WITH CONTROLLED SUBSTANCES

16.12.9.1 ISSUING AGENCY: New Mexico Board of Nursing.

[16.12.9.1 NMAC - N, 02-17-06]

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, 02-17-06; A, 11-20-12]

16.12.9.3 STATUTORY AUTHORITY: Section 61-3-1 et seq., authorized the board of nursing to regulate the practice of nursing in the state and the Pain Relief Act, sections 24-2D-1 through 24-2D-6.

[16.12.9.3 NMAC - N, 02-17-06, A, 11-20-12]

16.12.9.4 DURATION: Permanent

[16.12.9.4 NMAC - N, 02-17-06]

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, 02-17-06]

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, 02-17-06; A, 11-20-12]

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 then legitimate medical purposes.

F. “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.

G. “Physical dependence” means a state of adaptation that is manifested by a drug-specific withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, administration of an antagonist, or a combination of these.

H. “Prescription monitoring program (PMP)” means a centralized system to collect, monitor, and analyze electronically, for controlled substances, prescribing and dispensing data submitted by pharmacies and dispensing practitioners. The data are used to support efforts in education, research, enforcement and abuse prevention.

I. “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.

J. “Tolerance” means a state of adaptation in which exposure to a drug induces changes that result in a diminution of one or more of the drug's effects over time.

[16.12.9.7 NMAC - N, 02-17-06; A, 11-20-12]

16.12.9.8 RULES: The following rules shall be used by the board to determine whether a health care practitioner'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 with substance use disorders 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) A practitioner 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 or contra-indication against the use of controlled substances.

(2) A practitioner 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) 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.

(5) Complete and accurate records of care provided and drugs prescribed shall be maintained. When controlled substances are prescribed, the name of the drug, quantity, prescribed dosage and number of refills authorized should be recorded. Prescriptions for opioids shall include indications for use. For chronic noncancer 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 noncancer pain patients shall receive all chronic pain management prescriptions from one practitioner and one pharmacy whenever possible.

(6) The management of patients needing chronic pain control requires monitoring by the attending or the consulting practitioner. The practitioner shall periodically review the course of treatment for chronic noncancer pain, the patient's state of health, and any new information about the etiology of the chronic noncancer pain at least every six 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, at least every six months. Drug screening is recommended and should be conducted when other factors suggest an elevated risk of misuse or diversion.

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

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

F. A practitioner who appropriately prescribes controlled substances and who follows this section would be considered to be in compliance with this rule and not be subject to discipline by the board, unless there is some violation of the 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, 02-17-06, A, 11-20-12]

16.12.9.9 PRESCRIPTION MONITORING PROGRAM (PMP) REQUIREMENTS: The intent of the NM board of nursing in requiring participation in the PMP is to assist practitioners in balancing the promotion of the safe use of controlled substances for the provision of nursing care and services with the need to impede illegal and harmful activities involving these pharmaceuticals.

A. A health care provider who holds a federal drug enforcement administration registration and licensure to prescribe opioids shall register with the board of pharmacy to become a regular participant in PMP inquiry and reporting.

B. Upon prescribing, ordering, administering or dispensing a controlled substance, the practitioner shall obtain and review a prescription monitoring report covering at least a one year time period or another state's report, where applicable and available. The practitioner shall be aware of a person currently:

(1) receiving opiates from multiple prescribers;

(2) receiving opiates for more than twelve consecutive weeks;

(3) receiving more than one controlled substance analgesic;

(4) receiving a new prescription for any long-acting controlled substance analgesic formulation, including oral dosage forms and transdermal (e.g. fentanyl) or methadone;

(5) exhibiting potential for abuse or misuse of opiates (i.e. over-utilization, early refills, appears overly sedated or intoxicated upon presentation, or an unfamiliar patient requesting an opiate by specific name, street name, color, or identifying marks, or paying cash when the patient has prescription insurance).

C. Upon recognizing any of the above, the practitioner, using professional judgment, shall take appropriate steps to avoid or resolve the potential problem. These steps may include requesting and reviewing additional controlled substance prescription monitoring reports or another state's report if applicable and available, or consulting with a pain management specialist or addiction treatment specialist or counseling the patient, which may include termination of treatment. The practitioner shall document steps taken to resolve the potential problem, which may include termination from treatment.

D. After obtaining an initial prescription monitoring report on a patient, the practitioner shall use professional judgment based on prevailing standards of practice in deciding the frequency of requesting and reviewing further prescription monitoring reports or other state's report on that patient. Prescription monitoring reports shall be requested and reviewed a minimum of once every six months during the continuous use of opioids for each established patient. The practitioner shall document the review of these reports.

[16.12.9.9 NMAC - N, 11-20-12]

16.12.9.10 NON-CANCER PAIN MANAGEMENT CONTINUING EDUCATION: Any health care provider with a 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 CE of the 15 CE currently required every two years in pharmacology to include 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.

[16.12.9.10 NMAC - N, 11-20-12]

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, 11-20-12]

16.12.9.12 ADVANCED PRACTICE NURSES, REGISTERED NURSES, AND LICENSED PRACTICAL NURSES TREATED WITH OPIATES: Advanced practice nurses, registered nurses, licensed practical nurses 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 a complete, independent neuropsychological evaluation, as well as clearance from their practitioner, before returning to or continuing in practice. In addition, they must remain under the care of a physician, CRNA, CNP or CNS for as long as they remain on opiates while continuing to practice.

[16.12.9.12 NMAC - Rn & A, 16.12.9.9 NMAC; 11-20-12]

Code of New Mexico Rules (2014)
Title 16. Occupational and Professional Licensing
Chapter 16. Optometric Practitioner
Part 15. Management of Pain with Controlled Substances (Refs & Annos)

16.16.15. MANAGEMENT OF PAIN WITH CONTROLLED SUBSTANCES

16.16.15.1 ISSUING AGENCY: New Mexico Board of Optometry.

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

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

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

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

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

16.16.15.4 DURATION: Permanent.

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

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

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

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

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

16.16.15.7 DEFINITIONS:

A. “Addiction” means a neurobehavioral syndrome with genetic and environmental influences that result in psychological dependence on the use of substances for their psychic effects. It is

characterized by behaviors that include one or more of the following: impaired control over drug use; compulsive use; continued use despite harm; and craving.

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

C. “Chronic pain” means pain that persists after reasonable efforts have been made to relieve the pain or its cause and that continues, either continuously or episodically, for longer than three consecutive months. “Chronic pain” does not, for purpose of the Pain Relief Act requirements, include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.

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

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

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

G. “Physical dependence” means a state of adaptation that is manifested by a drug-specific withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, administration of an antagonist, or a combination of these.

H. “Prescription monitoring program (PMP)” means a centralized system to collect, monitor, and analyze electronically, for controlled substances, prescribing and dispensing data submitted by pharmacies and dispensing practitioners. The data is used to support efforts in education, research, enforcement, and abuse prevention.

I. “Therapeutic purpose” means the use of pharmaceutical and non-pharmaceutical treatment that conforms substantially to accepted guidelines for pain management.

J. “Tolerance” means a state of adaptation in which exposure to a drug induces changes that result in a diminution of one or more of the drug's effects over time.

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

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

A. The treatment of pain with drugs or controlled substances is a legitimate optometric practice when accomplished in the usual course of professional practice. It does not preclude treatment of

patients with addiction, physical dependence or tolerance, who have legitimate pain. However, such patients do require very close monitoring and precise documentation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. An optometrist shall, before prescribing, ordering, administering or dispensing a controlled substance listed in Schedule III or IV, obtain a patient PMP report for the preceding 12 months when one of the following exists:

(1) for a new patient of the optometrist, a patient PMP report for the previous 12 months shall only be required when Schedules III or IV drugs are prescribed for a period greater than 10 days; and

(2) for an established patient during the continuous use of controlled substances, a PMP shall be requested a minimum of once every six months.

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

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

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

B. The continuing education courses are subject to prior board approval and shall count toward the total continuing education requirements as set forth in 16.16.13.9 NMAC.

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

16.16.15.12 NOTIFICATION: In addition to the notice of procedures set forth in the State Rules Act Chapter 14, Article 4, NMSA 1978, the board shall separately notify the following persons of the Pain Relief Act and Part 15 of the New Mexico Optometry board rule;

A. health care practitioners under its jurisdiction; and

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

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

Code of New Mexico Rules (2014)
Title 16. Occupational and Professional Licensing
Chapter 17. Osteopathic Medicine and Surgery Practitioners
Part 5. Prescribing and Distribution of Controlled Substances (Refs & Annos)

16.17.5. PRESCRIBING AND DISTRIBUTION OF CONTROLLED SUBSTANCES

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

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

16.17.5.2 SCOPE: This part applies to all licensed osteopathic physicians.

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

16.17.5.3 STATUTORY AUTHORITY: These rules of practice and procedure govern the practice of osteopathic medicine in New Mexico and are promulgated pursuant to and in accordance with the Osteopathic Medicine and Surgery Act, Sections 61-10-1 through 61-10 -23 NMSA 1978 and the Pain Relief Act, sections 24-2D-1,NMSA thru 24- 2D-6.

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

16.17.5.4 DURATION: Permanent.

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

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

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

16.17.5.6 OBJECTIVE: It is the position of the board that osteopathic physicians have an obligation to treat pain and that a wide variety of medicines including controlled substances and other drugs may be prescribed for that purpose. When such medicines and drugs are used they should be prescribed in adequate doses and for appropriate lengths of time after a thorough medical evaluation has been completed.

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

16.17.5.7 DEFINITIONS:

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

B. “Chronic pain‘ means a pain that persists after reasonable efforts have been made to relieve the pain or its cause and that continues, either continuously or episodically for longer than three consecutive months. “Chronic pain” does not, for the purpose of the Pain Relief Act requirements, include pain associated with a terminal condition.

C. “Pain‘ means acute or chronic pain or both.

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

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

F. “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.

G. “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.

H. “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.

I. “Prescription monitoring program‘ means a centralized system to collect, monitor, and analyze electronically, for controlled substances, prescribing and dispensing data submitted by pharmacies and dispensing practitioners. The data are used to support efforts in education, research, enforcement and abuse prevention.

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

K. “Administer‘ means to apply a prepackaged drug directly to the body of a patient by any means.

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

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

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

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

P. “Licensed osteopathic physician” means an osteopathic physician licensed by the New Mexico osteopathic board of examiners to practice medicine in New Mexico.

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

16.17.5.8 GUIDELINES: The following regulations shall be used by the board to determine whether an osteopathic physician's prescriptive practices are consistent with the appropriate treatment of pain.

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

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

(1) A practitioner shall complete a physical examination and include an evaluation of the patient's psychological and pain status. The medical history shall include any previous history of significant pain, past history of alternate treatments for pain, potential for substance abuse, coexisting disease or medical conditions, and the presence of a medical indication or contra-indication against the use of controlled substances.

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

(3) A written treatment plan shall be developed and tailored to the individual needs of the patient, taking age, gender, culture, and ethnicity into consideration, with stated objectives by which treatment can be evaluated, e.g. by degree of pain relief, improved physical and psychological function, or other accepted measure.

Such a plan shall include a statement of the need for further testing, consultation, referral or use of other treatment modalities.

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

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

(6) The management of patients needing chronic pain control requires monitoring by the attending or the consulting practitioner. The practitioner shall periodically review the course of treatment for chronic non-cancer pain, the patient's state of health, and any new information about the etiology of the chronic non-cancer pain at least every six months. In addition, a practitioner shall consult, when indicated by the patient's condition, with a clinical pain expert. Consultation should occur early in the course of long-term treatment and at reasonable intervals during continued long-term treatment for assessment of benefit and need a minimum of once every six months.

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

C. Pain management for patients with substance abuse disorders shall include:

(1) a contractual agreement;

(2) appropriate consultation;

(3) urine or hair or salivary or blood drug screening shall be considered when other factors suggest an elevated risk of misuse or diversion; and

(4) a schedule for re-evaluation at appropriate time intervals at least every six months.

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

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

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

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

H. A practitioner who appropriately prescribes controlled substances and who follows this section would be considered to be in compliance with this rule and not be subject to discipline by the board, unless there is some violation of the Osteopathic Medicine and Surgery Practice Act or board rules.

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

16.17.5.9 PHYSICIANS TREATED WITH OPIATES: Physicians who have chronic pain and are being treated with opiates shall be evaluated by a pain clinic or, by an M.D. or D.O. pain specialist, and must have a complete, independent neuropsychological evaluation, as well as clearance from their physician, before returning to or continuing in practice. In addition, they must remain under the care of a physician for as long as they remain on opiates while continuing to practice.

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

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

A. A health care practitioner who holds a federal drug enforcement administration registration and licensure to prescribe opioids shall register with the board of pharmacy to become a regular participant in PMP inquiry and reporting.

B. A health care practitioner shall, before prescribing, ordering, administering or dispensing a controlled substance listed in schedule II, III or IV, obtain a patient PMP report for the preceding 12 months when the patient is a new patient of the practitioner.

C. Prescription monitoring reports shall be requested and reviewed a minimum of once every six months during the continuous use of opioids for each established patient. The practitioner shall document the review of these reports.

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

16.17.5.11 NON-CANCER PAIN MANAGEMENT CONTINUING EDUCATION: This section applies to all New Mexico osteopathic board licensed physicians who hold a federal drug enforcement administration registration and licensure to prescribe opioids. Pursuant to the Pain Relief Act, in order to ensure that all such health care practitioners safely prescribe for pain management and harm reduction, the following rules shall apply.

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

B. Beginning with the July 1, 2014 triennial renewal date, as part of the 75 continuing medical education hours required during each triennial renewal cycle, all New Mexico osteopathic board physician licensees, who hold a federal drug enforcement administration registration and license to prescribe opioids, shall be required to complete and submit six continuing education hours. Appropriate courses shall include all of the educational elements described in Subsection A of this section. All such courses are subject to board approval. These hours may be earned at any time during the three-year period immediately preceding the triennial renewal date. The two continuing medical education hours completed prior to July 1, 2014, as defined in Subsection A above, may be included as part of the required continuing medical education hours in pain management.

C. All New Mexico osteopathic board licensees, whether or not the New Mexico license is their first license, who hold a federal drug enforcement administration registration and license shall complete two continuing medical education hours in pain management during the first year of licensure. These two continuing medical education hours completed prior to the first renewal may be included as part of the hours required in Subsection B above.

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

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

A. health care practitioners under its jurisdiction; and

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

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

Code of New Mexico Rules (2014)
Title 16. Occupational and Professional Licensing
Chapter 19. Pharmacists
Part 4. Pharmacist

16.19.4. PHARMACIST

16.19.4.1 ISSUING AGENCY: Regulation and Licensing Department - Board of Pharmacy, Albuquerque, NM.

[02-15-96; 16.19.4.1 NMAC - Rn, 16 NMAC 19.4.1, 03-30-02; A, 12-15-02; A, 08-16-10]

16.19.4.2 SCOPE: All designations of pharmacists subject to licensure and regulation by the Board of Pharmacy.

[02-15-96; 16.19.4.2 NMAC - Rn, 16 NMAC 19.4.2, 03-30-02]

16.19.4.3 STATUTORY AUTHORITY: Section 61-11-6.A.(1) authorizes the Board of Pharmacy to adopt, regu-larly review and revise rules and regulations necessary to carry out the provisions of the Pharmacy Act, Sections 61-11-1, 61-11-2, 61-11-4 to 61-11-28 NMSA 1978. Those provisions include the authority to (i) deny or take disci-plinary action with respect to any certificate of registration or license held or applied for under the Pharmacy Act, Sections 61-11-20 NMSA 1978; (ii) require and establish criteria for continuing education as a condition of renewal of a pharmacist license, Sections 61-11-6.A.(4) NMSA 1978; (iii) issue permits or licenses, as defined and limited by Board regulation, to nursing homes, industrial and public health clinics and home care services, Sections 61-11-6.A.(6), 61-11-14 NMSA 1978; (iv) provide for the annual renewal of licenses for pharmacists, Sections 61-11-6.A.(3), 61-11-13 NMSA 1978; (v) provide for the registration of pharmacist interns, their certification, an-nual renewal of certification, training, supervision, and discipline, Sections 61-11-6.A.(5) NMSA 1978; and (vi) adopt rules and regulations that establish patient counseling requirements, 61-11-6.A.(18) NMSA 1978. Under the Pharmacist Prescriptive Authority Act, Sections 61-11B-1 to 61-11B-3 NMSA 1978, the Board is required to estab-lish regulations governing certification as a pharmacist clinician. The Impaired Pharmacists Act, Sections 61-11A-1 to 61-11A-8 NMSA 1978, requires the establishment by the Board of a plan for treatment and rehabilitation of impaired pharmacists.

[03-14-98; 16.19.4.3 NMAC - Rn, 16 NMAC 19.4.3, 03-30-02]

16.19.4.4 DURATION: Permanent

[02-15-96; 16.19.4.4 NMAC - Rn, 16 NMAC 19.4.4, 03-30-02]

16.19.4.5 EFFECTIVE DATE: February 15, 1996, unless a different date is cited at the end of a Section or Para-graph. This Part reformatted for inclusion into the New Mexico Administrative Code (NMAC) effective 2-15-96.

[03-14-98; 16.19.4.5 NMAC - Rn, 16 NMAC 19.4.5, 03-30-02]

16.19.4.6 OBJECTIVE: The objective of Part 4 of Chapter 19 is to promote the delivery of quality pharmaceutical services by establishing comprehensive regulations governing pharmacists, conduct, continuing education and re-quirements, criteria for specialized certification, and duties and responsibilities.

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16.19.4.16 RESPONSIBILITIES OF PHARMACIST AND PHARMACIST INTERN:

A. The following responsibilities require the use of professional judgement and therefore shall be performed only by a pharmacist or pharmacist intern:

(1) receipt of all new verbal prescription orders and reduction to writing;

(2) initial identification, evaluation and interpretation of the prescription order and any necessary clinical clarification prior to dispensing;

(3) professional consultation with a patient or his agent regarding a prescription;

(4) evaluation of available clinical data in patient medication record system;

(5) oral communication with the patient or patient's agent of information, as defined in this section under patient counseling, in order to improve therapy by ensuring proper use of drugs and devices;

(6) professional consultation with the prescriber, the prescriber's agent, or any other health care professional or authorized agent regarding a patient and any medical information pertaining to the prescription;

(7) drug regimen review, as defined in 61-11-2L;

(8) professional consultation, without dispensing, will require that the patient be provided with the identification of the pharmacist or pharmacy intern providing the service.

B. Only a pharmacist shall perform the following duties:

(1) final check on all aspects of the completed prescription including sterile products and cytotoxic preparations, and assumption of the responsibility for the filled prescription, including, but not limited to, appropriateness of dose, accuracy of drug, strength, labeling, verification of ingredients and proper container;

(2) evaluation of pharmaceuticals for formulary selection within the facility;

(3) supervision of all supportive personnel activities including preparation, mixing, assembling, packaging, labeling and storage of medications;

(4) ensure that supportive personnel have been properly trained for the duties they may perform;

(5) any verbal communication with a patient or patient's representative regarding a change in drug therapy or performing therapeutic interchanges (i.e. drugs with similar effects in specific therapeutic categories); this does not apply to substitution of generic equivalents;

(6) any other duty required of a pharmacist by any federal or state law.

C. Patient records.

(1) A reasonable effort must be made to obtain, record and maintain at least the following information:

(a) name, address, telephone number, date of birth (or age) and gender of the patient;

(b) individual medical history, if significant, including disease state or states, known allergies and drug reactions and a comprehensive list of medications and relevant devices; and

(c) pharmacists comments relevant to the individuals drug therapy.

(2) Such information contained in the patient record should be considered by the pharmacist or pharmacist intern in the exercise of their professional judgement concerning both the offer to counsel and the content of counseling.

D. Prospective drug review.

(1) Prior to dispensing any prescription, a pharmacist shall review the patient profile for the purpose of identifying:

(a) clinical abuse/misuse;

(b) therapeutic duplication;

(c) drug-disease contraindications;

(d) drug-drug interactions;

(e) incorrect drug dosage;

(f) incorrect duration of drug treatment;

(g) drug-allergy interactions;

(h) appropriate medication indication.

(2) Upon recognizing any of the above, a pharmacist, using professional judgment, shall take appropriate steps to avoid or resolve the potential problem. These steps may include requesting and reviewing a controlled substance prescription monitoring report or another states' reports if applicable and available, and consulting with the prescriber and counseling the patient. The pharmacist shall document steps taken to resolve the potential problem.

E. Prescription monitoring report for opiate prescriptions. When presented with an opiate prescription for a patient, obtaining and reviewing a prescription monitoring report for that patient can be an important tool that assists the pharmacist in identifying issues or problems that put his or her patient at risk of prescription drug abuse or diversion. A pharmacist shall use professional judgment based on prevailing standards of practice in determining whether to obtain and review a prescription monitoring report before dispensing an opiate prescription to that patient, and shall document his or her action regarding such reports.

(1) A pharmacist shall request and review a prescription monitoring report covering at least a one year time period and another states' report, where applicable and available if;

(a) a pharmacist becomes aware of a person currently exhibiting potential abuse or misuse of opiates (i.e. over-utilization, early refills, mulitple prescribers, appears overly sedated or intoxicated upon presenting a precription for an opiate or an unfamiliar patient requesting an opiate by specific name, street name, color, or identifying marks, or paying cash when the patient has prescription insurance);

(b) a pharmacist receives an opiat prescription requesting the dispensing of opiates from a prescription issued by a prescriber with whom the pharmacist is unfamiliar (e.i. prescriber is located out-of-state or prescriber is outside the usual pharmacy geographic prescriber care area);

(c) providing opiates for a patient that is receiving chronic pain management prescriptions.

(2) After obtaining an initial prescription monitoring report on a patient, a pharmacist shall use professional judgment base on prevailing standards of practice, in deciding the frequency of requesting and reviewing further prescription monitoring reports and other states' reports for that patient. The pharmacist shall document the review of these reports.

(3) In the event a report is not immediately available, the pharmacist shall use professional judgment in determining whether it is appropriate and in the patient's best interest to dispense the prescription prior to receiving a report.

(4) A prescription for an opiate written for a patient in a long term care facility (LTCF) or for a patient with a medical diagnosis documenting a terminal illness is exempt from Subsection D of 16.19.29.8 NMAC. If there is any question whether a patient may be classified as having a terminal illness, the pharmacist shall contact the practitioner. The pharmacist shall document whether the patient is “terminally ill” or an “LTCF patient”.

F. Counseling.

(1) Upon receipt of a new prescription drug order and following a review of the patient's record, a pharmacist or pharmacist intern shall personally offer to counsel on matters which will enhance or optimize drug therapy with each patient or the patient's agent. Upon receipt of a refill prescription drug order a pharmacy technician may query the patient or patient's agent regarding counseling by the pharmacist or pharmacist intern concerning drug therapy. Such counseling shall be in person, whenever practicable, or by telephone, and shall include appropriate elements of patient counseling which may include, in their professional judgement, one or more of the following:

(a) the name and description of the drug;

(b) the dosage form, dosage, route of administration, and duration of drug therapy;

(c) intended use of the drug and expected action;

(d) special directions and precautions for preparation, administration and use by the patient;

(e) common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance and the action required if they occur;

(f) techniques for self-monitoring drug therapy;

(g) proper storage;

(h) prescriptions refill information;

(i) action to be taken in the event of a missed dose;

(j) the need to check with the pharmacist or practitioner before taking other medication; and

(k) pharmacist comments relevant to the individual's drug therapy, including any other information peculiar to the specific patient or drug.

(2) [REPEALED]

(3) Alternative forms of patient information may be used to supplement patient counseling when appropriate. Examples include, but not limited to, written information leaflets, pictogram labels and video programs.

(4) Patient counseling, as described above and defined in this regulation shall not be required for in-patients of a hospital or institution where other licensed health care professionals are authorized to administer the drug(s).

(5) A pharmacist shall in no way attempt to circumvent or willfully discourage a patient or patient's agent from receiving counseling. However, a pharmacist shall not be required to counsel a patient or patients's agent when the patient or patients's agent refuses such consultation.

(6) When the patient or agent is not present when the prescription is dispensed, including but not limited to a prescription that was shipped by the mail, the pharmacist shall ensure that the patient receives written notice of available counseling. Such notice shall include days and hours of availability, and: (1) of his or her right to request counseling; and (2) a toll-free telephone number in which the patient or patient's agent may obtain oral counseling from a pharmacist who has ready access to the patient's record. For pharmacies delivering more than 50% of their prescriptions by mail or other common carrier, the hours of availability shall be a minimum of 60 hours per week and not less than 6 days per week. The facility must have sufficient toll-free phone lines and personnel to provide counseling within 15 minutes.

(7) In every pharmacy there shall be prominently posted in a place conspicuous to and readable by prescription drug consumers a notice concerning available counseling.

G. [REPEALED]

H. Regulatory assessment. Profiles, either electronic or hard copy, shall be available for inspection, and shall provide the capability of storing the described historical information. The profiles must demonstrate that an effort is being made to fulfill the requirements by the completion of the detail required. A patient record shall be maintained for a period of not less than three (3) years from the date of the last entry in the profile record.

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Code of New Mexico Rules (2014)
Title 16. Occupational and Professional Licensing
Chapter 19. Pharmacists
Part 20. Controlled Substances

16.19.20. CONTROLLED SUBSTANCES

16.19.20.1 ISSUING AGENCY: Regulation and Licensing Department - Board of Pharmacy, Albuquerque, NM.

[16.19.20.1 NMAC - Rp 16 NMAC 19.20.1, 07-15-02; A, 12-15-02; A, 03-07-11]

16.19.20.2 SCOPE: All persons or entities that manufacture, distribute, dispense, administer, prescribe, deliver, analyze, or conduct research using controlled substances.

[16.19.20.2 NMAC - Rp 16 NMAC 19.20.2, 07-15-02]

16.19.20.3 STATUTORY AUTHORITY: Section 30-31-11 of the Controlled Substances Act, "30-31-1 through 30-31-42 NMSA 1978, authorizes the board of pharmacy to promulgate regulations and charge reasonable fees for the registration and control of the manufacture, distribution and dispensing of controlled substances.

[16.19.20.3 NMAC - Rp 16 NMAC 19.20.3, 07-15-02]

16.19.20.4 DURATION: Permanent.

[16.19.20.4 NMAC - Rp 16 NMAC 19.20.4, 07-15-02]

16.19.20.5 EFFECTIVE DATE: July 15, 2002, unless a different date is cited at the end of a section.

[16.19.20.5 NMAC - Rp 16 NMAC 19.20.5, 07-15-02]

16.19.20.6 OBJECTIVE: The objective of Part 20 of Chapter 19 is to protect the public health and welfare of the citizens of New Mexico by controlling and monitoring access to controlled substances and to give notice of the board's designation of particular substances as controlled substances.

[16.19.20.6 NMAC - Rp 16 NMAC 19.20.6, 07-15-02]

16.19.20.7 DEFINITIONS: [Reserved]

[16.19.20.7 NMAC - Rp 16 NMAC 19.20.7, 07-15-02]

16.19.20.8 REGISTRATION REQUIREMENTS: Persons required to register:

A. manufacture - term includes repackagers;

B. distributors - term includes wholesale drug distributors;

C. dispensers - pharmacies, hospital pharmacies, clinics (both health and veterinarian);

D. practitioners - includes a physician, doctor of oriental medicine, dentist, physician assistant, certified nurse practitioner, clinical nurse specialist, certified nurse-midwife, veterinarian, pharmacist, pharmacist clinician, certified registered nurse anesthetists, psychologists, chiropractic examiner, euthanasia technicians or other person licensed or certified to prescribe and administer drugs that are subject to the Controlled Substances Act. Practitioners, excluding veterinarians, must register with the New Mexico prescription monitoring program in conjunction with their controlled substance registration.

E. scientific investigators or researchers;

F. analytical laboratories and chemical analysis laboratories;

G. teaching institutes;

H. special projects and demonstrations which bear directly on misuse or abuse of controlled substances - may include public agencies, institutions of higher education and private organizations;

I. registration waiver: an individual licensed practitioner (e.g., intern, resident, staff physician, mid-level practitioner) who is an agent or employee of a hospital or clinic, licensed by the board, may, when acting in the usual course of employment or business, order controlled substances, for administration to the patients of the facility, under controlled substance registration of the hospital or clinic in which he or she is employed provided that:

(1) the ordering of controlled substances for administration, to the patients of the hospital or clinic, is in the usual course of professional practice and the hospital or clinic authorizes the practitioner to order controlled substances for the administration to its patients under its state controlled substance registration;

(2) the hospital or clinic has verified with the practitioner's licensing board that the practitioner is permitted to order controlled substances within the state;

(3) the practitioner acts only within their scope of employment in that hospital or clinic;

(4) the hospital or clinic maintains a current list of practitioners given such authorization and includes the practitioner's full name, date of birth, professional classification and license number, and home and business addresses and phone numbers;

(5) the list is available at all times to board inspectors, the D.E.A., law enforcement and health professional licensing boards; and

(6) the hospital or clinic shall submit a current list of authorized practitioners with each hospital or clinic controlled substance renewal application.

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Code of New Mexico Rules (2014)
Title 16. Occupational and Professional Licensing
Chapter 19. Pharmacists
Part 29. Controlled Substance Prescription Monitoring Program

16.19.29. CONTROLLED SUBSTANCE PRESCRIPTION MONITORING PROGRAM

16.19.29.1 ISSUING AGENCY: Regulation and Licensing Department - Board of Pharmacy.

[16.19.29.1 NMAC - N, 07-15-04]

16.19.29.2 SCOPE: All persons or entities that dispense controlled substances pursuant to prescriptions from practitioners.

[16.19.29.2 NMAC - N, 07-15-04]

16.19.29.3 STATUTORY AUTHORITY: Section 30-31-16 of the Controlled Substance Act.30-31-1 through 30-31-42 NMSA 1978, authorizes the board of pharmacy to promulgate regulations and charge reasonable fees regarding controlled substances. 30-31-16 authorizes the board to collect information regarding controlled substances.

[16.19.29.3 NMAC - N, 07-15-04]

16.19.29.4 DURATION: Permanent.

[16.19.29.4 NMAC - N, 07-15-04]

16.19.29.5 EFFECTIVE DATE: 07-15-04, unless a later date is cited at the end of a section.

[16.19.29.5 NMAC - N, 07-15-04]

16.19.29.6 OBJECTIVE: The objective of Part 29 of Chapter 19 is to promote the public health and welfare by detecting and preventing substance abuse and encouraging appropriate treatment of pain and other conditions for which controlled substances are prescribed. The purpose of the system is to improve access to controlled substances for legitimate medical needs by allowing a practitioner or a pharmacist to obtain a patient's pharmaceutical history related to controlled substances. The program's objectives will include education of the public and health care professionals regarding the nature and extent of the problem of drug abuse, appropriate prescribing and use of controlled substances, and the medical treatment options for abusers of controlled substances and pain management.

[16.19.29.6 NMAC - N, 07-15-04]

16.19.29.7 DEFINITIONS:

A. “Controlled substance” has the meaning given such term in 30-31-2 NMSA.

B. “Board of pharmacy” means the state agency responsible for the functions listed in 16.19.29.8 NMAC.

C. “Patient” means the ultimate user of a drug for whom a prescription is issued and for whom a drug is dispensed.

D. “Dispenser” means the person who delivers a Schedule II - V controlled substance as defined in Subsection F of this section to the ultimate user, but does not include the following:

(1) a licensed hospital pharmacy that distributes such substances for the purpose of inpatient hospital care;

(2) a practitioner, or other authorized person who administers such a substance; or

(3) a wholesale distributor of a Schedule II - V controlled substance;

(4) clinics, urgent care or emergency departments dispensing no more than 12 dosage units to an individual patient within a 72 hour period.

(5) veterinarians or veterinary clinics dispensing to non-human patients.

E. “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, of which the data is to be used to support efforts in education, research, enforcement and abuse prevention.

F. “Schedule II, III, IV and V controlled substance” means substances that are listed in schedules II, III, IV, and V of the schedules provided under 30-31-5 to 30-31-10 of NMSA or the federal controlled substances regulation (21 U.S.C. 812).

G. “Report” means a compilation of data concerning a patient, a dispenser, a practitioner, or a controlled substance.

[16.19.29.7 NMAC - N, 07-15-04; A, 06-11-11; A, 08-31-12; A, 10-24-14]

16.19.29.8 REQUIREMENTS FOR THE PRESCRIPTION MONITORING PROGRAM:

A. The board shall monitor the dispensing of all Schedule II, III, IV and V controlled substances by all pharmacies licensed to dispense such substances to patients in this state.

B. Each dispenser shall submit to the board by electronic means information regarding each prescription dispensed for a drug included under Subsection A of this section. Information to be reported shall conform to the standards developed by the American society for automation in

pharmacy (ASAP) and published in the "ASAP telecommunications format for controlled substances", 2009 4.1 edition. Information submitted for each prescription shall include:

(1) dispenser DEA number;

(2) date prescription filled;

(3) prescription number;

(4) whether the prescription is new or a refill;

(5) NDC code for drug dispensed;

(6) quantity dispensed;

(7) patient name;

(8) patient address;

(9) patient date of birth;

(10) prescriber DEA number;

(11) date prescription issued by prescriber;

(12) and payment classification.

C. Each dispenser shall submit the information in accordance with transmission methods and frequency established by the board; but shall report at least every seven days. The executive director shall have the authority to approve submission schedules that exceed seven days. A record of each controlled substance prescription dispensed must be transmitted to the boards' agent electronically.

[16.19.29.8 NMAC - N, 07-15-04; A, 06-11-11; A, 08-31-12]

16.19.29.9 ACCESS TO PRESCRIPTION INFORMATION: Practitioners registered with the program may designate one delegate per practice site to register with the program for the purpose of requesting and receiving reports for the practitioner.

A. Prescription information submitted to the board shall be confidential and not subject to public or open records laws, except as provided in Subsections C, D and E of 16.19.29.9 NMAC.

B. The board shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed to persons except as in Subsection C, D, and E of this 16.19.29.9 NMAC.

C. After receiving a complaint, the board inspectors shall review the relevant prescription information. If there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, the board shall notify the appropriate law enforcement or professional licensing, certification or regulatory agency or entity, and provide prescription information required for an investigation.

D. The board will establish written protocols for reviewing the prescription data reported. These protocols will be reviewed and approved by the board as needed but at least once every calendar year. These protocols will define information to be screened, frequency and thresholds for screening and the parameters for using the data. Data will be used to notify providers, patients and pharmacies to educate, provide for patient management and treatment options.

E. The board shall be authorized to provide data in the prescription monitoring program to the following persons:

(1) persons authorized to prescribe or dispense controlled substances, for the purpose of providing medical or pharmaceutical care for their patients;

(2) an individual who request's their own prescription monitoring information in accordance with procedures established under 61-11-2.D NMSA, 1978 and Subsection G of 16.19.6.23 NMAC;

(3) New Mexico medical board, New Mexico board of nursing, New Mexico board of veterinary medicine, New Mexico board of dental health care, board of examiners in optometry, osteopathic examiners board, acupuncture & oriental medicine board, and podiatry board for their licensees;

(4) professional licensing authorities of other states if their licensees practice in the state or prescriptions provided by their licensees are dispensed in the state;

(5) local, state and federal law enforcement or prosecutorial officials engaged in an ongoing investigation of an individual in the enforcement of the laws governing licit drugs;

(6) human services department regarding medicaid program recipients;

(7) metropolitan, district, state or federal court(s) under grand jury subpoena or criminal court order;

(8) personnel of the board for purposes of administration and enforcement of this regulation, or 16.19.20 NMAC or;

(9) the controlled substance monitoring program of another state or group of states with whom the state has established an interoperability agreement;

(10) a parent to have access to the prescription records about his or her minor child, as his or her minor child's personal representative when such access is not inconsistent with state or other laws;

(11) the board shall use de-identified data obtained from the prescription drug monitoring database to identify and report to state and local public health authorities the geographic areas of the state where anomalous prescribing dispensing or use of controlled substances is occurring.

(12) the board shall share prescription drug monitoring database data with the department of health for the purpose of tracking inappropriate prescribing and misuse of controlled substances, including drug overdose.

F. The board shall provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify individual patients and persons who have received prescriptions from dispensers.

[16.19.29.9 NMAC - N, 07-15-04; A, 06-11-11; A, 08-31-12]

16.19.29.10 REPORTS: A written request will be filed with the board prior to release of a report.

A. Persons listed in Paragraphs (1) through (10) of Subsection E of 16.19.29.9 NMAC must submit a written request listing the information for the report.

B. Reports will be prepared and delivered to the requesting person via U.S. mail, facsimile, or other electronic means.

C. Reports may be provided by secured electronic means after verification of electronic request.

D. The program will produce reports for the board that evaluate the effectiveness of the program and assist in identifying diversion of controlled substances. The program will produce statistical reports to evaluate the dispensing of controlled substances and utilization of the program. These reports will be able to provide data on:

(1) number of solicited reports from prescribers for a specified time period;

(2) number of solicited reports from a specified prescriber for a specified time period;

(3) number of solicited reports from pharmacies for a specified time period;

(4) number of solicited reports from a specified pharmacy for a specific time period;

(5) number of solicited reports from other unauthorized individuals for a specified time period;

(6) number of individuals receiving a prescription for a specified schedule for a specified time period;

(7) threshold report of number of individuals receiving a prescription for a specified schedule from 6 or more prescribers or 6 or more pharmacies within a specified time period;

(8) number of solid dosage units for a specified schedule for pain relievers, tranquilizers, stimulants and sedatives for a specified time period;

(9) list of individual prescriptions for a specified zip-code or state code;

(10) number of prescriptions for a specified zip-code;

(11) number of dosage units for a specified drug and specified zip-code.

E. The board shall receive a quarterly program outcomes report from staff or contractors. A statistical analysis of the data that does not include protected information should be reported on the web site or in the newsletter.

[16.19.29.10 NMAC - N, 07-15-04; A, 06-11-11]

16.19.29.11 AUTHORITY TO CONTRACT: The board is authorized to contract with another agency of this state or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. Any contract shall be bound to comply with the provisions regarding confidentiality of prescription information in 16.19.29.9 NMAC of this regulation and shall be subject to the penalties specified in 16.19.29.12 NMAC of this regulation for unlawful regulations.

[16.19.29.11 NMAC - N, 07-15-04]

16.19.29.12 REGISTRATION FOR ACCESS TO PRESCRIPTION INFORMATION:

A. Practitioners with individual drug enforcement administration (DEA) issued numbers will complete and submit a hard copy written, signed and notarized application. After verification of submitted information, a username and password will be issued to the practitioner. One subaccount per practitioner account is authorized for an agent of the practitioner. The agent designated by the practitioner will complete and submit a hard copy written, signed and notarized application. After verification of submitted information, a username and password will be issued to the agent.

B. Pharmacies with DEA issued numbers will complete and submit a hard copy written, signed and notarized application. After verification of submitted information, a username and password will be issued. Pharmacies will designate one individual who will complete and submit a hard copy written, signed and notarized application. After verification of submitted information, a username and password will be issued to the individual. Pharmacies will not be permitted to obtain a subaccount.

C. All registrations will be renewed every three years by completing and submitting a new application.

D. All registrants to the prescription monitoring program will complete a web based training program approved by the board.

[16.19.29.12 NMAC - N, 07-15-04; 16.19.29.12 NMAC - N, 06-11-11; A, 08-31-12]

16.19.29.13 INFORMATION EXCHANGE WITH OTHER PRESCRIPTION MONITORING PROGRAMS:

A. The New Mexico board of pharmacy may provide prescription monitoring information to other states' prescription monitoring programs and such information may be used by those programs consistent with the provisions of the rule.

B. The New Mexico board of pharmacy may request and receive prescription monitoring information from other states' prescription monitoring programs and may use such information under provisions of this rule.

C. The New Mexico board of pharmacy may develop the capability to transmit information to and receive information from other prescription monitoring programs employing the standards of interoperability.

D. The New Mexico board of pharmacy is authorized to enter into written agreements with other states' prescription monitoring programs or other entities hosting compatible information sharing technologies for the purpose of describing the terms and conditions for sharing of prescription information under this section.

[16.19.29.13 NMAC - N, 07-15-04; 16.19.29.13 NMAC - N, 06-11-11]

16.19.29.14 PENALTIES:

A. A dispenser who knowingly fails to submit prescription monitoring information to the board as required by this regulation or knowingly submits incorrect prescription information shall be subject to disciplinary proceedings as defined in 61-11-20 NMSA.

B. Prescription information submitted to the New Mexico prescription monitoring program (PMP) is protected health information. Registrants with access to the PMP are required to exercise due diligence in protecting this information and access it only as necessary in the course of legitimate professional regulatory, or law enforcement duties.

C. Individual registrants found to be in violation of this section may be subject to one or more of the following actions.

(1) Termination of access to the program information.

(2) A complaint may be filed with appropriate professional regulatory entities.

[16.19.29.14 NMAC - Rn, 16.19.29.12 NMAC, 06-11-11; A, 08-31-12]

16.19.29.15 SEVERABILITY: If any provisions of this regulation or application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the regulation which can be given effect without the invalid provisions or applications, and to this end the provisions of this regulation are severable.

Code of New Mexico Rules (2014)
Title 16. Occupational and Professional Licensing
Chapter 21. Podiatrists
Part 9. Management of Pain with Controlled Substances

16.21.9. MANAGEMENT OF PAIN WITH CONTROLLED SUBSTANCES

16.21.9.1 ISSUING AGENCY: Regulation and Licensing Department, NM Board of Podiatry.

[16.21.9.1 NMAC - N, 11-01-13]

16.21.9.2 SCOPE: This part applies to all New Mexico licensed podiatrists who hold a federal drug enforcement administration registration.

[16.21.9.2 NMAC - N, 11-01-13]

16.21.9.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to and in accordance with the Podiatry Act, Sections 61-8-1 through 61-8-17 NMSA 1978 and the Pain Relief Act, Sections 24-2D-1 NMSA through 24-2D-6.

[16.21.9.3 NMAC - N, 11-01-13]

16.21.9.4 DURATION: Permanent.

[16.21.9.4 NMAC - N, 11-01-13]

16.21.9.5 EFFECTIVE DATE: 11-01-13, unless a later date is cited at the end of a section.

[16.21.9.5 NMAC - N, 11-01-13]

16.21.9.6 OBJECTIVE: It is the position of the board that practitioners have an obligation to treat chronic pain and that a wide variety of medicines including controlled substances and other drugs may be prescribed for that purpose. When such medicines and drugs are used, they should be prescribed in adequate doses and for appropriate lengths of time after a thorough medical evaluation has been completed.

[16.21.9.6 NMAC - N, 11-01-13]

16.21.9.7 DEFINITIONS:

A. “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.

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

C. “Chronic pain” means pain that persists after reasonable medical efforts have been made to relieve the pain or its cause and that continues, either continuously or episodically, for longer than three consecutive months. “Chronic pain” does not, for purpose of the Pain Relief Act requirements, include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.

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

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

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

G. “Physical dependence” means a state of adaptation that is manifested by a drug-specific withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, administration of an antagonist, or a combination of these.

H. “Prescription monitoring program” 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.

I. “Therapeutic purpose” means the use of pharmaceutical and non-pharmaceutical medical treatment that conforms substantially to accepted guidelines for pain management.

J. “Tolerance” means a state of adaptation in which exposure to a drug induces changes that result in a diminution of one or more of the drug's effects over time.

[16.21.9.7 NMAC - N, 11-01-13]

16.21.9.8 HEALTH CARE PRACTITIONER'S PRESCTIPTIVE PRACTICES: The following regulations shall be used by the board to determine whether a health care practitioner's prescriptive practices are consistent with the appropriate treatment of pain.

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

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

(1) A practitioner shall complete a physical examination and include an evaluation of the patient's psychological and pain status. The medical history shall include any previous history of significant pain, past history of alternate treatments for pain, potential for substance abuse, coexisting disease or medical conditions, and the presence of a medical indication or contra-indication against the use of controlled substances.

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

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

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

(5) Complete and accurate records of care provided and drugs prescribed shall be maintained. When controlled substances are prescribed, the name of the drug, quantity, prescribed dosage and number of refills authorized shall be recorded. Prescriptions for opioids shall include indications for use. For chronic 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 pain patients shall receive all chronic pain management prescriptions from one practitioner and one pharmacy whenever possible.

(6) The management of patients needing chronic pain control requires monitoring by the attending or the consulting practitioner. The practitioner shall periodically review the course of treatment for chronic pain, the patient's state of health, and any new information about the etiology of the chronic pain at least every six months. In addition, a practitioner shall consult, when indicated by the patient's condition, with health care professionals who are experienced (by the length and type of their practice) in the area of chronic pain control; such professionals need not be those who specialize in pain control.

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

C. Pain management for patients with substance use disorders shall include:

(1) a contractual agreement;

(2) appropriate consultation;

(3) drug screening when other factors suggest an elevated risk of misuse or diversion; and

(4) a schedule for re-evaluation at appropriate time intervals at least every six months.

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

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

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

[16.21.9.8 NMAC - N, 11-01-13]

16.21.9.9 PODIATRIC PHYSICIAN TREATED WITH OPIATES: Podiatric physicians who have chronic pain and are being treated with opiates shall be evaluated by a pain clinic or, by an MD or DO pain specialist, and must have a complete, independent neuropsychological evaluation, as well as clearance from their physician, before returning to or continuing in practice. In addition, they must remain under the care of a physician for as long as they remain on opiates while continuing to practice.

[16.21.9.9 NMAC - N, 11-01-13]

16.21.9.10 PRESCRIPTION MONITORING PROGRAM (PMP) REQUIREMENTS: The intent of the New Mexico board of podiatry in requiring participation in the PMP is to assist practitioners in balancing the promotion of the safe use of controlled substances for the provision

of medical care and services with the need to impede illegal and harmful activities involving these pharmaceuticals.

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

B. A podiatrist shall, before prescribing, ordering, administering or dispensing a controlled substance listed in Schedule II, III or IV, obtain a patient PMP report for the preceding 12 months when one of the following situations exists:

(1) the patient is a new patient of the podiatrist, in which situation a patient PMP report for the previous 12 months shall only be required when Schedules II, III, and IV drugs are prescribed for a period greater than 10 days; and

(2) during the continuous use of opioids by established patients a PMP shall be requested and reviewed a minimum of once every six months.

[16.21.9.10 NMAC - N, 11-01-13]

16.21.9.11 PAIN MANAGEMENT CONTINUING EDUCATION: This section applies to all New Mexico board of podiatry licensees.

A. Immediate requirements effective January 2, 2014.Beginning January 2, 2014 and then for each annual renewal cycle, all New Mexico board of podiatry licensees shall complete no less than two continuing medical education hours in appropriate courses:

(1) an understanding of the pharmacology and risks on controlled substances;

(2) a basic awareness of the problems of abuse, addiction and diversion;

(3) awareness of state and federal regulations for the prescription of controlled substances;

(4) management of the treatment of pain; and

(5) courses may also include a review of this rule (16.21.9 NMAC); the applicability of such courses toward fulfillment of the continuing medical education requirement is subject to New Mexico board of podiatry approval; podiatrists who have taken CME in these educational elements between January 1, 2013 and December 31, 2014 may apply those hours toward the required two CME described in this section.

B. Requirements for new licensees.All New Mexico board of podiatry licensees, whether or not the New Mexico license is their first license shall complete two continuing medical education hours in pain management during the first year of licensure and then for each annual renewal cycle.

C. The continuing education requirements of this section are included in the sixteen hours needed for renewal.

[16.21.9.11 NMAC - N, 11-01-13]

16.21.9.12 NOTIFICATION: In addition to the notice of procedures set forth in the State Rules Act, Section 14-4-1 et seq NMSA 1978, the board shall separately notify the following persons of the Pain Relief Act and the New Mexico podiatry board rule, 16.21.9 NMAC:

A. health care practitioners under its jurisdiction; and

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

[16.21.9.12 NMAC - N, 11-01-13]