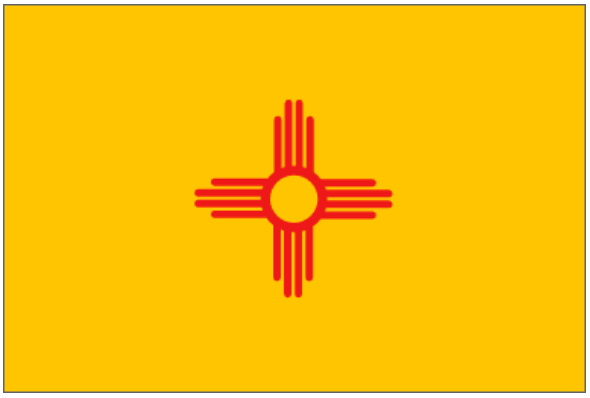
Prescribing and Dispensing Profile

New Mexico



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NAMSDL
National Alliance for Model State Drug Laws

Schedule II Prescribing Limitations (not related to pain clinics)

Schedule II substances may only be dispensed on the written prescription of a practitioner

- May be dispensed on the oral prescription of a practitioner in emergency situations
  - Emergency situation means that the prescribing physician determines:
    - That immediate administration of a controlled substance is necessary for proper treatment of the intended patient
    - That no appropriate alternative treatment is available, including administration of a drug that is not a Schedule II substance
    - That it is not reasonably possible for the prescriber to provide a written prescription prior to dispensing
  - Must be immediately reduced to writing
  - Must be limited to a quantity sufficient to treat the patient during the emergency period
  - Prescriber must deliver a written prescription to the pharmacist within seven days
- May be dispensed on the faxed prescription of a practitioner in the following circumstances:
  - Schedule II narcotic substance to be compounded for direct administration to the patient via certain methods
  - Resident of a long term care facility or hospice program

Schedule II prescriptions shall be maintained separately from other prescriptions

Schedule II prescriptions may not be refilled

Schedule III, IV and V Prescribing Limitations (not related to pain clinics)

Schedule III and IV substances may only be dispensed on the written or oral prescription of a practitioner

- A new telephone prescription for an opioid in Schedule III – V shall not exceed a ten day supply and cannot be refilled

Schedule III and IV prescriptions may not be filled or refilled more than six months after originally issued or refilled more than five times unless renewed by the practitioner

- Controlled substance prescriptions dispensed directly to the patient shall not be refilled before 75% of the prescription days' supply has passed unless the practitioner authorizes the early refill
- Controlled substance prescriptions delivered to a patient indirectly (as mail order) shall not be refilled before 66% of a 90-day supply has passed or 50% of a 30-day supply has passed unless the practitioner authorizes an early refill

Schedule V substances may only be distributed or dispensed for a medical purpose

- Schedule V prescriptions may only be refilled as expressly authorized by the practitioner

Schedule III – V prescriptions shall be maintained separately from other prescriptions or in such form that they are readily retrievable from other records

Miscellaneous Prescribing/Dispensing Requirements

Practitioners shall keep records of all drugs dispensed

Prescriptions shall contain the following information:

- Date and signature of prescriber
- Full name and address of patient
- Drug name, strength, dosage form, quantity prescribed
- Directions for use
- Name, address, and registration number of prescriber
- Identify of pharmacist of record

Prescribing/Dispensing Limitations for Dentists

No separate statutes or regulations related to prescribing and dispensing limitations for dentists.

Prescribing/Dispensing Limitations for Optometrists

Optometrists may prescribe or administer the following oral pharmaceutical agents:

- Anti-infective medications, not including antifungals
- Anti-glaucoma medications, not including osmotic medications
- Anti-allergy medications
- Anti-inflammatory medications, not including oral corticosteroids and immunosuppression agents
- Analgesic medications, including Schedules III – V controlled substances

Upon receipt of a DEA registration number, optometrists may administer, dispense, or prescribe dangerous controlled substances for the treatment and management of ocular disease

Pain Clinic/Pain Management Regulations

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 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

A provider who prescribes, dispenses, or administers medical treatment for the purpose of relieving pain and who can demonstrate by reference to an accepted guideline that the provider's practice substantially complies with that guideline and with the standards of practice identified in law, shall not be disciplined pursuant to board action or criminal prosecution, unless the showing of substantial compliance with an accepted guideline by the health care provider is rebutted by clinical expert testimony

The boards of medicine, osteopathy, dentistry, and optometry adopted guidelines for the treatment of pain

Pain Clinic/Pain Management Regulations, cont'd.

The following regulations shall be used by the various boards to determine whether a health care provider's prescriptive practices are consistent with the appropriate treatment of pain

- The treatment of pain with various medicines or controlled substances is a legitimate medical practice when accomplished in the usual course of professional practice
- The prescribing, ordering, administering, or dispensing of controlled substances to meet the individual needs of a patient for management of chronic pain is appropriate if prescribed, ordered, administered, or dispensed in compliance with the following:
  - Practitioner shall complete a physical exam of the patient and include an evaluation of the patient's psychological and pain status
    - 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
  - Practitioner shall be familiar with and employ screening tools as appropriate, as well as the spectrum of available treatment modalities, in the evaluation and management of pain
  - 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, such as by degree of pain relief, improved physical and psychological function, or other accepted measures
    - Plan shall include a statement of the need for further testing, consultation, referral, or use of other treatment modalities
  - Practitioner shall discuss the risks and benefits of using controlled substances with the patient and shall document this discussion in the record
  - Complete and accurate records of care shall be maintained
    - Prescriptions for opioids shall include indications for use
    - For chronic pain patients treated with controlled substance analgesics, the practitioner shall use a written treatment agreement outlining the patient responsibilities
      - Patients shall receive pain management prescriptions from one physician and one pharmacy where possible
  - 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
    - Practitioner shall consult with other health care practitioners when indicated by the patient's condition

Boards 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
- Follow-up evaluation with appropriate continuity of care

The boards will review both under-prescribing and over-prescribing of pain medications using the same standard of patient protection

Training or Education Requirements or Recommendations for Practitioners who Prescribe or Dispense Controlled Substances

All health care providers who hold a federal DEA registration and licensure to prescribe opioids shall be required to obtain five hours of pain management continuing education in courses that include:

- An understanding of the pharmacology and risks of controlled substances
- A basic awareness of the problems of abuse, addiction, and diversion
- Awareness of state and federal regulations for the prescription of controlled substances
- Management of the treatment of pain

Practitioners who certify patients for the use of medical marijuana are encouraged to obtain at least two continuing medical education credit hours annually related to the medical use of cannabis

Dentists who hold a federal DEA registration to prescribe controlled substances shall complete three continuing dental education hours in pain management in courses that include:

- An understanding of the pharmacology and risks of controlled substances
- A basic awareness of the problems of abuse, addiction, and diversion
- Awareness of state and federal regulations for the prescription of controlled substances
- Management of the treatment of pain

Optometrists must obtain at least one hour of continuing education in pain management or related topic

Medical Marijuana or Controlled Substances Therapeutic Research Program Provisions

This section deals only with the conditions that qualify a patient for the use of medical marijuana or a therapeutic research program and the attendant physician responsibilities. For complete information on state medical marijuana and therapeutic research programs, please visit the NAMSDL website at www.namsdl.org.

Program limited to patients undergoing cancer chemotherapy or who have glaucoma, those who have been certified to the patient qualifications review board by a physician as being involved in a life-threatening or sense-threatening situation and who are not responding to conventional controlled substances or where the conventional controlled substances administered have proven effective but where the patient has incurred severe side effects

Patient qualification review board to be made up of:

- A physician licensed to practice medicine in New Mexico and certified by the American board of ophthalmology
- A physician licensed to practice medicine in New Mexico and certified by the American board of internal medicine and also certified in the subspecialty of medical oncology
- Physician licensed to practice medicine and also certified by the American board of psychiatry and neurology

Patient qualification review board may include other disease groups for participation in the program after pertinent medical data have been presented by a physician

Medical Marijuana or Controlled Substances Therapeutic Research Program Provisions, cont'd.

Administrator shall obtain marijuana through whatever means he deems most appropriate

Debilitating medical condition means:

- Cancer; glaucoma; multiple sclerosis; damage to the nervous tissue of the spinal cord, with objective neurological indication of intractable spasticity; epilepsy; HIV/AIDS; admitted into hospice care
- Any other medical condition, treatment, or disease as approved by the department which includes:
  - Severe chronic pain
    - Objective proof of the etiology of the pain shall be clear in the application
    - A practitioner familiar with the patient's chronic pain shall provide written certification that the patient has an unremitting severe chronic pain condition
      - For an initial patient application, this certification shall be made by a specialist with expertise in pain management or a specialist with expertise in the disease process that is causing the pain
      - For all subsequent applications, the certification can be made by the patient's primary care physician
  - Painful peripheral neuropathy
    - Application shall be accompanied by medical records that confirm the objective presence of painful peripheral neuropathy that has been refractory to other treatments
  - Intractable nausea/vomiting
  - Severe anorexia/cachexia
  - Hepatitis C infection currently receiving antiviral treatment; written certification shall attest:
    - That the hepatitis C infection is currently being treated with antiviral drugs
    - The anticipated duration of the hepatitis C antiviral treatment
  - Crohn's disease
  - PTSD
    - Shall submit medical records that confirm the diagnosis of PTSD based upon the evaluation of a psychiatrist, psychiatric nurse practitioner, or prescribing psychologist
  - Inflammatory autoimmune-mediated arthritis
    - Shall submit medical records that confirm the diagnosis based upon the evaluation of a rheumatologist who is board certified in rheumatology
  - Amyotrophic lateral sclerosis
  - Inclusion body myositis
  - Spasmodic torticollis (cervical dystonia)
  - Parkinson's disease
  - Huntington's disease
  - Ulcerative colitis

Physician shall not be subject to arrest or prosecution, penalized in any manner, or denied any right or privilege for recommending the medical use of cannabis or providing written certification for the medical use of cannabis

PMP Requirements for Mandatory Registration and Access

All practitioners licensed or certified to prescribe controlled substances must register with the PMP

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

- PMP reports shall be requested and reviewed a minimum of once every six months during the continuous use of opioids for each established patient

Related to management of pain with controlled substance, a health care practitioner shall, before prescribing, administering, or dispensing a controlled substance in Schedule II – IV, obtain a PMP report for the preceding 12 months when one of the following situations exists:

- 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 Schedule II – IV drugs are prescribed for a period greater than 10 days
- During the continuous use of opioids by established patients a PMP report shall be requested and reviewed a minimum of once every six months

Optometrists shall, before prescribing, administering, or dispensing a controlled substance listed in Schedule III or IV, obtain a PMP report for the preceding 12 months when:

- The patient is a new patient of the optometrist and substances are being prescribed for a period greater than ten days
- For an established patient during the continuous use of controlled substances, a PMP report shall be requested a minimum of every six months

Dentists shall, before prescribing, administering, or dispensing a controlled substance listed in Schedule II – IV, obtain a PMP report for the preceding 12 months when:

- The patient is a new patient of the optometrist and substances are being prescribed for a period greater than ten days
- For an established patient during the continuous use of controlled substances, a PMP report shall be requested a minimum of every six months

A pharmacist shall request and review a PMP report covering at least one year and another states' report where applicable and available if:

- A pharmacist becomes aware of a person currently exhibiting potential abuse or misuse of opiates
  - Over-utilization, early refills, multiple prescribers, appears overly sedated or intoxicated upon presenting a prescription 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
- A pharmacist receives an opiate prescription requesting the dispensing of opiates from a prescription issued by a prescriber with whom the pharmacist is not familiar
- Providing opiates for a patient that is receiving chronic pain management prescriptions

Patient Referral to Treatment

No specific statutes or regulations identified.

Board Guidelines

New Mexico Boards of Medical Practice, Nursing, and Pharmacy issued the following statement regarding the management of chronic pain:

To effectively assist patients in the management of chronic pain, health care professional should, within their scope of practice:

- Consistently and thoroughly assess all patients for pain
  - If patient reports untreated pain or that they are unhappy with their current pain treatment, pain should be evaluated with a complete history and physical with laboratory and diagnostic testing if indicated
- Work collaboratively in a multi-disciplinary approach to develop and implement an individualized, written treatment plan utilizing pharmacologic and non-pharmacologic interventions with specific objectives for the patient
- Regularly evaluate the effectiveness of the treatment plan and make adjustments as needed
- Document all aspects of pain assessment and care in a timely, clear, consistent, complete and accurate manner
- Anticipate and effectively manage side effects of pain medicine
- Provide adequate and culturally appropriate information to patients and family
- Be aware of the risks of diversion and abuse and take appropriate steps to minimize these risks
- Recognize that individuals with chemical dependency may experience pain requiring medications, including opioids, and may require specialized management
- Consult with, and refer patients to, other providers when appropriate
- Develop organization-appropriate and evidence-based policies and protocols for pain management
- Become and remain knowledgeable regarding effective pain management