



**NEW MEXICO
BOARD OF PODIATRY
RULES AND REGULATIONS
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TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 21 PODIATRISTS
PART 1 GENERAL PROVISIONS

16.21.1.1 ISSUING AGENCY: Regulation and Licensing Department, NM Board of Podiatry.
[16.21.1.1 NMAC - N, 10-15-04]

16.21.1.2 SCOPE: The provisions in 16.21.1 NMAC apply to all parts of Chapter 21 and provide information for applicants, licensed podiatrists, board members, and members of the public.
[16.21.1.2 NMAC - N, 10-15-04]

16.21.1.3 STATUTORY AUTHORITY: Podiatry Act, Section 61-8-6(E)(2) NMSA 1978.
[16.21.1.3 NMAC - N, 10-15-04]

16.21.1.4 DURATION: Permanent.
[16.21.1.4 NMAC - N, 10-15-04]

16.21.1.5 EFFECTIVE DATE: October 15, 2004, unless a later date is cited at the end of a section.
[16.21.1.5 NMAC - N, 10-15-04]

16.21.1.6 OBJECTIVE: This part provides general provisions for the practice of podiatry, licensee responsibility, and requirements for the conduct of board business.
[16.21.1.6 NMAC - N, 10-15-04]

16.21.1.7 DEFINITIONS:
A. "APMLE" means American podiatric medical licensing examination.
B. "CPME" means the council on podiatric medical education.
C. "NBPME" means the national board of podiatric medical examiners.
[16.21.1.7 NMAC - N, 10-15-04; A, 7-15-07; A, 07-29-11]

16.21.1.8 SCOPE OF PRACTICE:
A. For the purpose of clarification of the Podiatry Act, Section 61-8-2(C) NMSA 1978, the practice of podiatry:
(1) in regard to surgical treatment shall include the skin and subcutaneous tissues of the thigh and all structures distal to the tuberosity of the tibia;
(2) does include amputation of any portion of the foot;
(3) does allow the use of the services of a certified registered nurse anesthetist; and
(4) a licensed podiatrist may assist a licensed medical or osteopathic physician in the performance of any surgery of the lower extremities.
B. A podiatric physician shall be recognized and permitted to supervise and administer hyperbaric oxygen following the published recommendations of the undersea and hyperbaric medical society, inc. "UHMS" and within the credentials and bylaws of the facility that operates the hyperbaric unit with the following stipulation; prior to administering hyperbaric oxygen, a podiatric physician must have on file with the New Mexico board of podiatry, documentation certifying compliance with the above requirements.
[16.21.1.8 NMAC - Rp, Rule IX, 10-15-04; A, 7-15-07; A, 07-29-11]

16.21.1.9 LICENSE DISPLAY: A valid license must be displayed and must be visible to the public in each place of business.
[16.21.1.9 NMAC - N, 10-15-04]

16.21.1.10 RESPONSIBILITY OF LICENSEE: It is the responsibility of the licensed podiatrist to keep the board informed of a current mailing address within 30 days of changes. All correspondence, including renewal forms, will be mailed to the last address on file. The board assumes no responsibility for renewal applications or other correspondence not received because of a change of address.
[16.21.1.10 NMAC - N, 10-15-04; A, 07-29-11]

16.21.1.11 SEVERABILITY: The provisions of these regulations are severable. If any parts of these regulations are held invalid, the remaining provisions shall remain in force and effect.
[16.21.1.11 NMAC - Rp, Rule XIV, 10-15-04]

16.21.1.12 TELEPHONIC ATTENDANCE BY BOARD MEMBERS:

A. Pursuant to the provisions of the Open Meetings Act, Section 10-15-1(C), NMSA, 1978, board members may participate in a board meeting by means of a conference telephone or similar communications equipment, and participation by such means shall constitute presence in person at the meeting. Such participation by telephone may only occur when it is difficult or impossible for the member to attend in person.

B. Each board member participating by conference telephone must be identified when speaking and all participants must be able to hear each other at the same time, and members of the public attending the meeting must be able to hear any member of the public or board members participating by phone.
[16.21.1.12 NMAC - N, 10-15-04]

16.21.1.13 CONDUCT OF BOARD BUSINESS:

A. *Officers.* The board shall elect a chairperson, vice-chair, and secretary at the first regularly scheduled meeting in each calendar year.

B. *Excused absences.* A board member may be excused from a board meeting at the discretion of the board chairperson. The member shall notify the board chairperson and board administrator prior to meeting with an explanation of why they will be unable to attend. All other unattended meetings will be unexcused absences. After three consecutive unexcused absences, the member shall be recommended for removal as a board member pursuant to the Podiatry Act, Section 61-8-5(D) NMSA 1978.

C. *Quorum.* Three board members shall constitute a quorum.

D. *Notice of meetings.* Regular meetings, special meetings and emergency meetings shall be noticed in accordance with the provisions of the board's open meetings resolution.
[16.21.1.13 NMAC - Rp, Rule I, 10-15-04]

16.21.1.14 PUBLIC RECORDS: Except as otherwise provided by law, all applications, pleadings, petitions, motions, exhibits, decisions and orders entered following "formal disciplinary proceedings" conducted pursuant to the Uniform Licensing Act, Sections 61-1-1 to 61-1-33 NMSA 1978) are matters of public record as of the time of filing with or by the board.
[16.21.1.14 NMAC - Rp, Rule XII, 10-15-04; A, 7-15-07]

16.21.1.15 NON PUBLIC RECORDS: The contents of any examination used to test for an individual's knowledge or competence, investigative files, and matters of opinion are confidential and not subject to public inspection. Complaints made to the board shall be confidential communications and are not public records for the purposes of the Public Records Act. Complaints, settlement agreements and information contained in complaint files, except investigative files and report, becomes public information and subject to disclosure, pursuant to the Public Records Act upon the decision of the board to take formal action.
[16.21.1.15 NMAC - Rp, Rule XI, 10-15-04; 16.21.1.15 NMAC - N, 7-15-07]

16.21.1.16 ADVERTISING GUIDELINES:

A. All advertisements shall include the podiatrist's name or medical group name, address and telephone number consistent with the Health Care Advertising Act, Section 57-27-1.

B. Specialty practice: A podiatrist may only advertise a specialty practice if they qualify under one of the following provisions:

(1) the licensee is board certified or board eligible by a recognized certifying board; if an abbreviation of the certifying board is used then the name of the certifying board must be included in the advertisement;

(2) the licensee is a fellow or an associate of a specialty organization which admits fellows and associates on the basis of an examination; if an abbreviation of the certifying board is used then the name of the certifying board must be included in the advertisement.

[16.21.1.16 NMAC - Rn, 16.21.1.15 NMAC & A, 7-15-07; A, 07-29-11]

HISTORY of 16.21.1 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the commission of public records - state records center and archives:

Rule I, Conduct of Board Business, filed 7-21-80;

Rule IX, Scope of Practice, filed 7-21-80;

Rule XI, Advertising by Licensees, filed 7-21-80;

Rule XII, Inspection of Board Records, filed 11-29-90;

Rule XIV, Severability, filed 11-29-90.

History of Repealed Material: Rule I, Conduct of Board Business (filed 7-21-80); Rule IX, Scope of Practice (filed 7-21-80); Rule XI, Advertising by Licensees (filed 7-21-80); Rule XII, Inspection of Board Records (filed 11-29-90); and Rule XIV, Severability, (filed 11-29-90), repealed 10-15-2004.

Other History:

Rule I, Conduct of Board Business (filed 7-21-80); Rule IX, Scope of Practice (filed 7-21-80); Rule XI, Advertising by Licensees (filed 7-21-80); Rule XII, Inspection of Board Records (filed 11-29-90); and Rule XIV, Severability, (filed 11-29-90) all replaced by 16.21.1 NMAC, effective 10-15-2004.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 21 PODIATRISTS
PART 2 FEES

16.21.2.1 ISSUING AGENCY: Regulation and Licensing Department, NM Board of Podiatry.
[16.21.2.1 NMAC - N, 10-15-04]

16.21.2.2 SCOPE: All applicants for licensure, licensees and members of the public.
[16.21.2.2 NMAC - N, 10-15-04]

16.21.2.3 STATUTORY AUTHORITY: This rule is promulgated pursuant to Section 61-8-10 NMSA 1978.
[16.21.2.3 NMAC - N, 10-15-04]

16.21.2.4 DURATION: Permanent.
[16.21.2.4 NMAC - N, 10-15-04]

16.21.2.5 EFFECTIVE DATE: October 15, 2004, unless a later date is cited at the end of a section.
[16.21.2.5 NMAC - N, 10-15-04]

16.21.2.6 OBJECTIVE: To establish fees to fund the cost of board operation.
[16.21.2.6 NMAC - N, 10-15-04]

16.21.2.7 DEFINITIONS: [RESERVED]

16.21.2.8 FEES:

- A. Application fee for licensure by examination is \$400.00.
 - B. Application fee for licensure by reciprocity is \$600.00.
 - C. Duplicate license fee is \$25.00.
 - D. Temporary license fee is \$100.00.
 - E. Annual renewal fee is \$300.00.
 - F. Late fee for license renewal applications that are received but not complete, or not received or postmarked by December 31, is \$50 per month for each month or part thereof.
 - G. Reinstatement fee is \$200.00 for the first twelve months of delinquency and \$500.00 for a license that has lapsed more than one year but not more than three years.
 - H. Fees for requests for copies of public records will be charged reasonable administrative fees.
- [16.21.2.8 NMAC - N, 10-15-04; A, 7-15-07]

HISTORY of 16.21.2 NMAC:

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

- Rule II, Initial Application For License, filed 7-21-80;
- Rule II, Initial Application For License, filed 8-18-89;
- Rule II, Initial Application For License, filed 11-29-90
- Rule II, Initial Application For License, filed 12-10-90;
- Rule III, Licensure By Reciprocity, filed 7-21-80;
- Rule III, Licensure By Reciprocity, filed 8-18-89;
- Rule IV, Temporary Licenses, filed 7-21-80;
- Rule IV, Temporary License, filed 10-6-87;
- Rule IV, Temporary License, filed 8-18-89;
- Rule IV, Temporary License, filed 11-29-90;
- Rule VI, Renewal Of License, filed 7-21-80;
- Rule VI, Renewal Of License, filed 8-18-89.
- Rule XIII, Duplicate/Replacement License, filed 11-29-90.

History of the Repealed Material:

16 NMAC 21.3, Podiatry - Application For License By Examination (filed 6-17-1996);
16 NMAC 21.4, Podiatry - Application For License By Reciprocity (filed 6-17-1996);
16 NMAC 21.5, Podiatry - Application For Temporary License (filed 6-17-1996) - repealed 10-15-2004.

Other History:

Those applicable portions of Rule VI, Renewal Of License (filed 8-18-89); 16 NMAC 21.3, Podiatry - Application For License By Examination (filed 6-17-1996); 16 NMAC 21.4, Podiatry - Application For License By Reciprocity (filed 6-17-1996); 16 NMAC 21.5, Podiatry - Application For Temporary License (filed 6-17-1996) replaced by 16.21.2 NMAC, Fees, effective 10-15-2004.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 21 PODIATRISTS
PART 3 LICENSE BY EXAM

16.21.3.1 ISSUING AGENCY: Regulation and Licensing Department, NM Board of Podiatry.
[16.21.3.1 NMAC - Rp, 16 NMAC 21.3.1, 10-15-04]

16.21.3.2 SCOPE: Applicants for licensure as a podiatrist by examination.
[16.21.3.2 NMAC - Rp, 16 NMAC 21.3.2, 10-15-04]

16.21.3.3 STATUTORY AUTHORITY: Podiatry Act, Section 61-8-6(E)(10) and 61-8-8 NMSA 1978.
[16.21.3.3 NMAC - Rp, 16 NMAC 21.3.3, 10-15-04]

16.21.3.4 DURATION: Permanent.
[16.21.3.4 NMAC - Rp, 16 NMAC 21.3.4, 10-15-04]

16.21.3.5 EFFECTIVE DATE: October 15, 2004, unless a later date is cited at the end of a section.
[16.21.3.5 NMAC - Rp, 16 NMAC 21.3.5, 10-15-04]

16.21.3.6 OBJECTIVE: This part lists the requirements and documentation, which must be submitted to the board to obtain licensure as a podiatrist by examination.
[16.21.3.6 NMAC - Rp, 16 NMAC 21.3.6, 10-15-04]

16.21.3.7 DEFINITIONS: “Jurisprudence exam” means an examination concerning the laws and rules of the New Mexico board of podiatry.
[16.21.3.7 NMAC - N, 10-15-04]

16.21.3.8 REQUIREMENTS FOR LICENSE: Each applicant for a license as a podiatrist must possess the following qualifications:

- A. graduated and been awarded a doctor of podiatric medicine degree from an accredited college of podiatric medicine as defined in the Podiatry Act, Section 61-8-8,(A)(3) NMSA 1978;
- B. passed the NBPME examinations part 1, 2, and 3;
- C. every applicant shall have completed at minimum one year of residency approved by the CPME;

and

- D. passed the New Mexico jurisprudence examination with a score of 90% or higher.

[16.21.3.8 NMAC - Rp, 16 NMAC 21.3.8, 10-15-04; A, 7-15-07; A, 07-29-11; A, 11-01-13]

16.21.3.9 DOCUMENTATION REQUIREMENTS: The board may designate a professional background information service, which compiles background information regarding an applicant from multiple sources. Each applicant for a license by examination must submit the required fees and following documentation:

- A. completed application, with signature and a passport quality photo taken within the past 6 months; applications are valid for one year from the date of receipt;
- B. official transcripts from the school of podiatric medicine or college, to be sent directly to the board office from the accredited program;
- C. certificate or letter from residency director verifying completion of residency program approved by the CPME;
- D. proof that the applicant has passed the NBPME examinations sent directly from the NBPME;
- E. verification of licensure in all states where the applicant holds or has held a license to practice podiatry, or other health care profession; verification must be sent directly to the board office from the other state(s), and must attest to the status, issue date, license number, and other information contained in the form; and
- F. electronic signatures will be acceptable for applications submitted pursuant to Section 14-16-1 through Section 14-16-19 NMSA 1978.

[16.21.3.9 NMAC - Rp, Rule V, 10-15-04; A, 7-15-07; A, 07-29-11; A, 11-01-13]

16.21.3.10 REPORTS: The board requires obtainment of reports from the national practitioners data bank or other national reporting organization and the federation of podiatric medical boards disciplinary data bank.

[16.21.3.10 NMAC - Rp, 16 NMAC 21.3.8, 10-15-04; A, 7-15-07]

16.21.3.11 LICENSURE PROCEDURE: Upon receipt of a completed application, including all required documentation and fees, the board secretary or the designee of the board will review and may approve the application. The results of the background check must either indicate no negative findings, or if there are negative findings, those findings will be considered by the board. The board may ratify the approval of the application at the next scheduled board meeting. Any application which cannot be approved by the designee of the board will be reviewed by the board at the next scheduled meeting.

[16.21.3.11 NMAC - Rp, 16 NMAC 21.3.8, 10-15-04; A, 7-15-07]

HISTORY of 16.21.3 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the commission of public records - state records center and archives:

Rule II, Initial Application for License, filed 7-21-80;

Rule II, Initial Application for License, filed 8-18-89;

Rule II, Initial Application for License, filed 11-29-90;

Rule II, Initial Application for License, filed 12-10-90;

Rule V, Examinations, filed 9-11-89.

History of the Repealed Material:

16 NMAC 21.3, Podiatry - Application for License by Examination, repealed 10-15-2004.

Other History:

Rule II, Initial Application for License (filed 12-10-90) was renumbered, reformatted and replaced by 16 NMAC 21.3, Podiatry - Application for License By Examination, effective 7-01-1996.

Rule V, Examinations, (filed 9-11-89) and 16 NMAC 21.3, Podiatry - Application for License by Examination (filed 6-17-1996) were replaced by 16.21.3 NMAC, License by Exam, effective 10-15-2004.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 21 PODIATRISTS
PART 4 LICENSE BY RECIPROCITY

16.21.4.1 ISSUING AGENCY: Regulation and Licensing Department, NM Board of Podiatry.
[16.21.4.1 NMAC - Rp, 16 NMAC 21.4.1, 10-15-04]

16.21.4.2 SCOPE: Applicants for licensure by reciprocity who are currently licensed in another state.
[16.21.4.2 NMAC - Rp, 16 NMAC 21.4.2, 10-15-04]

16.21.4.3 STATUTORY AUTHORITY: The Podiatry Act, Section .61-8-9 NMSA 1978.
[16.21.4.3 NMAC - Rp, 16 NMAC 21.4.3, 10-15-04]

16.21.4.4 DURATION: Permanent.
[16.21.4.4 NMAC - Rp, 16 NMAC 21.4.4, 10-15-04]

16.21.4.5 EFFECTIVE DATE: October 15, 2004, unless a later date is cited at the end of a section.
[16.21.4.5 NMAC - Rp, 16 NMAC 21.4.5, 10-15-04]

16.21.4.6 OBJECTIVE: This part lists the requirements and documentation that must be submitted to the board to obtain licensure as a podiatrist based on a license to practice podiatry in another state.
[16.21.4.6 NMAC - Rp, 16 NMAC 21.4.6, 10-15-04]

16.21.4.7 DEFINITIONS:

- A. "Active practice" for the purpose of this rule does not include practice in a residency or other training program.
 - B. "Jurisprudence exam" means an examination concerning the laws and rules of the New Mexico board of podiatry.
- [16.21.4.7 NMAC - N, 10-15-04]

16.21.4.8 REQUIREMENTS FOR LICENSURE BY RECIPROCITY: Each applicant for licensure as a podiatrist by reciprocity must possess the following qualifications:

- A. graduated and received a degree from an accredited podiatric school as defined in the Podiatry Act, 61-8-8(A)(3); NMSA 1978;
- B. hold a valid license by examination in another state or territory of the United States, with requirements for licensure equal to or exceeding those in New Mexico;
- C. provide proof of active practice for at least five consecutive years immediately preceding the date of application;
- D. passed the NBPME examinations part 1, 2 and 3, or equivalent exam for part 3 as determined by the board; and
- E. passed the jurisprudence examination with a score of 90% or higher.

[16.21.4.8 NMAC - Rp, 16 NMAC 21.4.8, 10-15-04; A, 07-29-11; A, 11-01-13]

16.21.4.9 DOCUMENTATION REQUIREMENTS: The board may designate a professional background information service, which compiles background information regarding an applicant from multiple sources. Each applicant for a license by reciprocity must submit the required fees and submit or provide for the following documentation:

- A. completed application, with signature and a passport quality photo taken within the past 6 months; applications are valid for one year from the date of receipt;
- B. official transcripts from the school of podiatric medicine or college, to be sent directly to the board office from the accredited program;
- C. one letter of recommendation from a practicing podiatrist who is personally acquainted with the applicant and who can attest that the applicant is of good moral character;
- D. certificate or letter from residency director verifying completion of residency program approved by the CPME;

- E. proof that the applicant has passed the NBPME examinations part 1, 2 and 3 sent directly from NBPME.
- F. proof that the applicant who has not taken NBPME part 3 or the PM lexis exam provide equivalent examination proof of passing;
- G. proof of active practice for the five consecutive years immediately preceding the date of application (proof may include a letter from an accountant, the professional society, tax forms, or other documentation approved by the board);
- H. verification of licensure in all states where the applicant holds or has held a license to practice podiatry, or other health care profession; and verification must be sent directly to the board office from the other state(s), and must attest to the license status, issue date, license number, and other information requested in the verification form.
- I. electronic signatures will be acceptable for applications submitted pursuant to Section 14-16-1 through Section 14-16-19 NMSA 1978.
[16.21.4.9 NMAC - Rp, 16 NMAC 21.4.8, 10-15-04; A, 7-15-07; A, 07-29-11; A, 11-01-13]

16.21.4.10 REPORTS: The board requires obtainment of reports from the national practitioners data bank, or other national reporting organization, and the federation of podiatric medical boards disciplinary data bank.
[16.21.4.10 NMAC - Rp, 16 NMAC 21.4.8, 10-15-04; A, 7-15-07; A, 11-01-13]

16.21.4.11 LICENSURE PROCEDURE: Upon receipt of a completed application, including all required documentation and fees, the secretary-treasurer or the delegate of the board will review and may approve the application. The results of the background check must either indicate no negative findings, or if there are negative findings, those findings will be considered by the board. The board may formally accept the approval of the application at the next scheduled meeting.
[16.21.4.11 NMAC - Rp, 16 NMAC 21.4.8, 10-15-04; A, 7-15-07]

HISTORY of 16.21.4 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the commission of public records - state records center and archives:

Rule III, Licensure by Reciprocity, filed 7-21-80;

Rule III, Licensure by Reciprocity, filed 8-18-89.

History of the Repealed Material:

16 NMAC 21.4, Podiatry - Application for License by Reciprocity, repealed 10-15-2004.

Other History:

Rule III, Licensure by Reciprocity (filed 8-18-89) was renumbered, reformatted and replaced by 16 NMAC 21.4, Podiatry - Application for License by Reciprocity, effective 7-01-1996.

16 NMAC 21.4, Podiatry - Application for License by Reciprocity (filed 6-17-1996) was replaced by 16.21.4 NMAC, License by Reciprocity, effective 10-15-2004.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 21 PODIATRISTS
PART 5 TEMPORARY LICENSE AND EMERGENCY LICENSE

16.21.5.1 ISSUING AGENCY: Regulation and Licensing Department, NM Board of Podiatry.
[16.21.5.1 NMAC - Rp, 16.21.5.1 NMAC, 7-15-07]

16.21.5.2 SCOPE: Applicants for a temporary license to practice podiatry in New Mexico.
[16.21.5.2 NMAC - Rp, 16.21.5.2 NMAC, 7-15-07]

16.21.5.3 STATUTORY AUTHORITY: The Podiatry Act, Section 61-8-6(E) and 61-8-14(B) and (C) NMSA 1978.
[16.21.5.3 NMAC - Rp, 16.21.5.3 NMAC, 7-15-07]

16.21.5.4 DURATION: Permanent.
[16.21.5.4 NMAC - Rp, 16.21.5.4 NMAC, 7-15-07]

16.21.5.5 EFFECTIVE DATE: July 15, 2007, unless a later date is cited at the end of a section.
[16.21.5.5 NMAC - Rp, 16.21.5.5 NMAC, 7-15-07]

16.21.5.6 OBJECTIVE: This part provides the circumstances under which a temporary license and or temporary emergency license will be issued and lists the requirements and documentation that must be submitted to the board in a complete application. It provides the procedure by which the board may approve the application and provides for expiration of the temporary license and or temporary emergency license.
[16.21.5.6 NMAC - Rp, 16.21.5.6 NMAC, 7-15-07]

16.21.5.7 DEFINITIONS:

A. "Emergency" for purposes of this rule means any sudden or unforeseen situation that requires immediate action. The sudden onset of physical or mental illness, injury, impairment or other incapacitating condition by a New Mexico licensed podiatrist is considered an emergency.

B. "Complaint/review committee" an ad hoc committee established by the board to review all complaints and applicants with background findings. Complaint committee shall consist of one (1) professional board member; the board's executive director and boards compliance liaison. Recommendations regarding the complaints and licensure of the applicants may be given to the board at its next scheduled meeting.

C. "Background findings" the board may deny, stipulate, or otherwise limit a license if it is determined the applicant hold or has held a license in another jurisdiction that is not in good standing, if proceedings are pending against the applicant in another jurisdiction, or information is received indicating the applicant is of danger to patients or is guilty of violating any of the provisions of the Podiatric Act, the Uniform Licensing Act, Impaired Health Care Providers Act. The results of the background check must either indicate no negative findings, or if there are negative findings, those findings will be considered by the board. The board may formally accept the approval of the application at the next scheduled meeting.

[16.21.5.7 NMAC - Rp, 16.21.5.7 NMAC, 7-15-07]

16.21.5.8 TEMPORARY LICENSE: A temporary license may be issued by the board in the following situations.

A. In cases of emergency as determined by the board; a temporary license to practice podiatry may be issued under this rule for practice in the office of a New Mexico licensed podiatrist who is unable to continue his or her practice due to an emergency.

B. To facilitate educational programs; a temporary license to practice podiatry in New Mexico may be issued to:

(1) a participant in a residency training program located in New Mexico accredited by the "CPME" and insure that at all times throughout the program the temporary license holder is supervised by a New Mexico licensed podiatrist; or

(2) a participant in a residency program that is located in a bordering state accredited by the "CPME" and insure that at all times the temporary license holder is supervised by a New Mexico licensed podiatrist, if the program offers part of its program residency in New Mexico.

(3) a participant in a post-graduate 1 year preceptorship program in New Mexico that at all times throughout the program is supervised by a New Mexico licensed podiatrist(s) in good standing and without restriction(s) of license; the board of podiatry requires the supervising podiatrist(s) of this preceptorship to have notified the board in writing of the start and end dates for this post-graduate training position.

C. In cases to assist or perform surgical procedures with a licensed New Mexico podiatrist which is beyond the training and experience available in New Mexico.

[16.21.5.8 NMAC - Rp, 16.21.5.8 NMAC, 7-15-07; A, 07-29-11; A, 11-01-13]

16.21.5.9 TEMPORARY EMERGENCY LICENSE: Podiatric physician currently licensed and in good standing, or otherwise meeting the requirements for New Mexico licensure, in a state in which a disaster has been declared by federal authorities, may apply for a license in New Mexico during the four months following the date the disaster was declared, at no cost.

[16.21.5.9 NMAC - N, 7-15-07]

16.21.5.10 REQUIREMENTS FOR TEMPORARY LICENSURE AND TEMPORARY EMERGENCY LICENSURE: The board may designate a professional background information service, which compiles background information regarding an applicant from multiple sources.

A. Applicants for temporary license or temporary emergency license due to situations defined under 16.21.5.8 NMAC A or C must meet the following qualifications:

(1) graduated and been awarded a doctor of podiatric medicine degree from an accredited college of podiatric medicine as defined in the Podiatry Act, Section 61-8-8,(A)(3) NMSA 1978;

(2) passed the NBPME examinations parts 1, 2 and 3, or equivalent exam for part 3 as determined by the board;

(3) completed a residency program as defined in the Podiatry Act, Section 61-8-8,(A),(4); and

(4) passed the New Mexico jurisprudence examination with a score of 90% or higher.

B. Applicants for temporary licensure to facilitate an educational or residency program must meet the following qualifications:

(1) graduated and been awarded a doctor of podiatric medicine degree from an accredited college of podiatric medicine as defined in the Podiatry Act, Section 61-8-8(A)(3) NMSA 1978;

(2) passed the podiatric medical examiners national board exams Part 1 and 2; and

(3) passed the jurisprudence examination with a score of 90% or higher.

[16.21.5.10 NMAC - Rp, 16.21.5.9 NMAC, 7-15-07; A, 07-29-11; A, 11-01-13]

16.21.5.11 TEMPORARY LICENSE DOCUMENTATION REQUIREMENTS: Each applicant for a temporary license must submit the required fees and submit or provide for the following documentation:

A. a completed application with signature and a passport quality photo taken within the past 6 months; applications are valid for one year from the date of receipt;

B. an official transcript from the school of podiatric medicine or college, to be sent directly to the board office from the accredited program;

C. proof that the applicant has passed the NBPME examinations parts 1, 2 and 3, or equivalent exam for part 3 as determined by the board, with the exception of applicants who are in residency training programs for part 3 only;

D. verification of licensure in all states where the applicant holds or has held a license to practice podiatry, or other health care profession; verification must be sent directly to the board office by the licensing state and attest to the status, issue date, license number of the licensee;

E. in addition, applicants obtaining temporary licensure to work in an existing practice due to an emergency must provide a certified copy of a certificate of completion of a residency program approved by the CPME;

F. applicants for temporary licensure to facilitate an educational or residency program must submit proof of enrollment in the educational or residency training program.

G. electronic signatures will be acceptable for applications submitted pursuant to Section 14-16-1 through Section 14-16-19 NMSA 1978.

[16.21.5.11 NMAC - Rp, 16.21.5.10 NMAC, 7-15-07; A, 07-29-11; A, 11-01-13]

16.21.5.12 TEMPORARY EMERGENCY LICENSE DOCUMENTATION REQUIREMENTS:

A. Podiatric physicians currently licensed and in good standing, or otherwise meeting the requirements for New Mexico licensure, in a state in which a disaster has been declared by federal authorities, may apply for a license in New Mexico during the four months following the date the disaster was declared, at no cost, upon satisfying the following requirements:

(1) proof applicant resides and is in active practice in the federally declared disaster areas in the form of a signed and notarized affidavit, accompanied by proof of identity, which may include a copy of a drivers license, passport or other photo identification issued by a governmental entity;

(2) official transcripts from the school of podiatric medicine or college, to be sent directly to the board office from the accredited program;

(3) one letter of recommendation from a practicing licensed podiatrist who is personally acquainted with the applicant and who can attest that the applicant is of good moral character;

(4) certificate or letter from residency director verifying completion of residency program approved by the CPME;

(5) proof that the applicant has passed the NBPME examinations, parts 1, 2 and 3, or equivalent exam for part 3, as determined by the board;

(6) the board may waive the specific forms required under Paragraphs (1) through (6) of Subsection A of 16.21.5.12 NMAC if the applicant is unable to obtain documentation from the federally declared disaster areas;

(7) other required verification may be obtained online by board staff to include: current licensure status, national practitioner's data bank, federation of podiatric medical board's disciplinary database;

(8) the board may designate a professional background information service, which compiles background information regarding an applicant from multiple sources;

(9) nothing in this section shall constitute a waiver of the requirements for licensure contained in 16.21.5 NMAC.

B. Upon receipt of a completed application, including all required documentation, the secretary-treasurer or the delegate of the board will review and may approve the application. The results of the background check must either indicate no negative findings, or if there are negative findings, those findings will be reviewed by the complaint/review committee. The board may formally accept the recommendation of the complaint/review committee at the next scheduled meeting.

[16.21.5.12 NMAC - N, 7-15-07; A, 07-29-11; A, 11-01-13]

16.21.5.13 REPORTS: The board requires obtainment of reports from the national practitioners data bank or other national reporting organization and the federation of podiatric medical boards disciplinary data bank if the applicant is currently licensed as a podiatrist in another state.

[16.21.5.13 NMAC - Rp, 16.21.5.11 NMAC, 7-15-07]

16.21.5.14 TEMPORARY LICENSE PROCEDURE: Upon receipt of a completed application, including all required documentation and fees, the board secretary or the designee of the board will review and may approve the application.

A. The results of the background check must either indicate no negative findings, or if there are negative findings, those findings will be considered by the board. The board shall ratify the approval of the application at the next scheduled board meeting. Any application which cannot be approved by the designee of the board will be reviewed by the board at the next scheduled meeting. The board's decision in regard to the issuance of a temporary license shall be final.

B. When issued, a temporary license shall state on its face that the license only authorizes the individual to practice podiatry at the location or locations stated on the license and shall expire automatically on the date of the next board meeting or on the date the applicant's residency educational program terminates.

[16.21.5.14 NMAC - Rp, 16.21.5.12 NMAC, 7-15-07; A, 07-29-11]

16.21.5.15 EMERGENCY LICENSE PROCEDURE:

A. The emergency licensee shall expire at the next board meeting or four (4) months, whichever comes first. A request for an extension of the emergency license may be made to the board or its designee and may be extended until January 1. The emergency licensee may obtain permanent license status upon submission of a renewal application, all fees and CE's approved by the board as outlined in 16.21.7 NMAC. The board reserves the

right to request additional documentation, including but not limited to recommendation forms and work experience verification forms prior to approving license renewal.

B. The emergency license shall be terminated by the board for the following:

- (1) the issuance of a permanent license under Subsection A of 16.21.5.15 NMAC;
- (2) proof that the emergency license holder has engaged in fraud deceit or misrepresentation in procuring or attempting to procure an emergency license under this section;
- (3) the results of the background check indicate negative findings.

[16.21.5.15 NMAC - N, 7-15-07]

HISTORY of 16.21.5 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the commission of public records - state records center and archives:

Rule IV, Temporary Licenses, filed 7-21-80;

Rule IV, Temporary License, filed 10-6-87;

Rule IV, Temporary License, filed 8-18-89;

Rule IV, Temporary License, filed 11-29-90.

History of the Repealed Material:

16 NMAC 21.5, Podiatry - Application for Temporary License (filed 7-17-1996), repealed 10-15-2004.

16.21.5 NMAC, Temporary License (filed 09-15-2004), repealed 7-15-07.

Other History:

Rule IV, Temporary License (filed 11-29-90) was renumbered, reformatted and replaced by 16 NMAC 21.5, Podiatry - Application for Temporary License, effective 7-01-1996.

16 NMAC 21.5, Podiatry - Application for Temporary License (filed 6-17-1996) was replaced by 16.21.5 NMAC, Temporary License, effective 10-15-2004.

16.21.5 NMAC, Temporary License (filed 09-15-2004) was replaced by 16.21.5 NMAC, Temporary License and Emergency License, effective 7-15-07.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 21 PODIATRISTS
PART 6 LICENSURE FOR MILITARY SERVICE MEMBERS, SPOUSES AND VETERANS

16.21.6.1 ISSUING AGENCY: Regulation and Licensing Department, NM Board of Podiatry.
[16.21.6.1 NMAC - N, 03-13-14]

16.21.6.2 SCOPE: This part sets forth application procedures to expedite licensure for military service members, spouses and veterans.
[16.21.6.2 NMAC - N, 03-14-14]

16.21.6.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to and in accordance with the Podiatry Act, NMSA 1978, Sections 61-8-1 to -17 (specific authority to promulgate rules is 61-8-6 E. (2) and Section 61-1-34 of the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 to -34.
[16.21.6.3 NMAC - N, 03-14-14]

16.21.6.4 DURATION: Permanent.
[16.21.6.4 NMAC - N, 03-13-14]

16.21.6.5 EFFECTIVE DATE: March 13, 2014, unless a later date is cited at the end of a section.
[16.21.6.5 NMAC - N, 03-13-14]

16.21.6.6 OBJECTIVE: The purpose of this part is to expedite licensure for military service members, spouses and veterans pursuant to NMSA 1978, Section 61-1-34.
[16.21.6.6 NMAC - N, 03-13-14]

16.21.6.7 DEFINITIONS:

- A. "Military service member" means a person who is serving in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard.
- B. "Recent veteran" means a person who has received an honorable discharge or separation from military service within the two years immediately preceding the date the person applied for an occupational or professional license pursuant to this section.
[16.21.6.7 NMAC - N, 03-13-14]

16.21.6.8 APPLICATION REQUIREMENTS:

- A. Applications for registration shall be completed on a form provided by the department.
- B. The applicant shall provide:
 - (1) a completed application and corresponding fee pursuant to 16.21.2.8 NMAC;
 - (2) satisfactory evidence that the applicant holds a license that is current and in good standing, issued by another jurisdiction, including a branch of the United States armed forces, that has met the minimal licensing requirement that are substantially equivalent to the licensing requirements for the occupational or professional license the applicant applies for pursuant to Chapter 61, Article 8 NMSA 1978; and
 - (3) proof of honorable discharge (DD214) or military ID card or accepted proof of military spouse status.
- C. Electronic signatures will be acceptable for applications submitted pursuant to section 14-16-1 through section 14-16-19 NMSA 1978.
[16.21.6.8 NMAC - N, 03-13-14]

16.21.6.9 RENEWAL REQUIREMENTS:

- A. A license issued pursuant to this section shall not be renewed unless the license holder satisfies the requirements for the issuance and for the renewal of a license pursuant to Chapter 61, Articles 8 NMSA 1978.
- B. A license issued pursuant to this section shall be valid until the next renewal, which is the next January 1.

C. The board office mails license renewal notifications to licensees before the license expiration date. Failure to receive the renewal notification shall not relieve the licensee of the responsibility of renewing the license by the expiration date.

D. The renewal application will be available online at the board's website and in paper copy if requested from the board office and must be post-marked or hand delivered on or before January 1 of each year.

E. To renew a license, the licensee must submit the following documentation on or before January 1 a completed license renewal application, verification of continuing education, and the applicable renewal fee at the time of renewal.

F. A license issued pursuant to this section shall not be renewed unless the license holder satisfies the requirements for the issuance specified in 16.21.3 or 16.21.4 NMAC and for the renewal of a license specified in 16.21.7 and 16.21.8 NMAC pursuant to Chapter 61, Articles 8 through 16 NMSA 1978.
[16.21.6.9 NMAC - N, 03-13-14]

HISTORY OF 16.21.6 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 21 PODIATRISTS
PART 7 LICENSE EXPIRATION AND RENEWAL

16.21.7.1 ISSUING AGENCY: Regulation and Licensing Department, NM Board of Podiatry.
[16.21.7.1 NMAC - N, 10-15-04]

16.21.7.2 SCOPE: All podiatrists with a license to practice in New Mexico.
[16.21.7.2 NMAC - N, 10-15-04]

16.21.7.3 STATUTORY AUTHORITY: Podiatry Act, 61-8-10 NMSA 1978 and 61-8-10.1 NMSA 1978.
[16.21.7.3 NMAC - N, 10-15-04]

16.21.7.4 DURATION: Permanent.
[16.21.7.4 NMAC - N, 10-15-04]

16.21.7.5 EFFECTIVE DATE: October 15, 2004, unless a later date is cited at the end of a section.
[16.21.7.5 NMAC - N, 10-15-04]

16.21.7.6 OBJECTIVE: To establish procedures for license expiration and renewal.
[16.21.7.6 NMAC - N, 10-15-04]

16.21.7.7 DEFINITIONS: [RESERVED]

16.21.7.8 LICENSE EXPIRATION: Podiatry licenses expire on January 1 of each year.
[16.21.7.8 NMAC - Rp, Rule VI.A, 10-15-04]

16.21.7.9 RENEWAL DEADLINE: A completed renewal application accompanied by the required fees, documentation of 16 hours of continuing education as defined in 16.21.8.13 NMAC and must be post-marked, received electronically, or hand delivered on or before January 1 of each year. Fourteen hours of CE is required for the renewal years before January 2, 2105. On or after January 2, 2015 the CE requirement is 16 hours of CE, including 2 hours of pain management.
[16.21.7.9 NMAC - Rp, Rule VI.A, 10-15-04; A, 07-29-11; A, 11-01-13]

16.21.7.10 LICENSEE RESPONSIBILITY: The board assumes no responsibility for renewal applications not received by the licensee for any reason. It is the licensee's responsibility to make timely request for the renewal form if one has not been received thirty days prior to license expiration.
[16.21.7.10 NMAC - Rp, Rule VI.A, 10-15-04]

16.21.7.11 LATE RENEWAL: Renewal applications that are not postmarked, received electronically or hand-delivered to the board office by January 1 must be accompanied by the completed renewal application as defined in 16.21.7.9 NMAC and late fees defined in Subsection F of 16.21.2.8 NMAC.
[16.21.7.11 NMAC - Rp, Rule VI.B, 10-15-04; A, 07-29-11]

16.21.7.12 SUMMARY SUSPENSION: A license that is not renewed by March 1 may be summarily suspended by the board.
[16.21.7.12 NMAC - Rp, Rule VI.B, 10-15-04]

HISTORY of 16.21.7 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the commission of public records - state records center and archives:

Rule VI, Renewal of License, filed 7-21-80;

Rule VI, Renewal of License, filed 8-18-89.

History of Repealed Material: Rule VI, Renewal of License (filed 8-18-89), repealed 10-15-2004.

Other History:

Rule VI, Renewal of License (filed 8-18-89) was renumbered, reformatted and replaced by 16.21.7 NMAC, License Expiration and Renewal, effective 10-15-2004.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 21 PODIATRISTS
PART 8 CONTINUING EDUCATION

16.21.8.1 ISSUING AGENCY: Regulation and Licensing Department, NM Board of Podiatry.
[16.21.8.1 NMAC - N, 10-15-04]

16.21.8.2 SCOPE: Individuals with a license to practice podiatry in the state of New Mexico.
[16.21.8.2 NMAC - N, 10-15-04]

16.21.8.3 STATUTORY AUTHORITY: This rule is promulgated pursuant to the Podiatry Act, 61-8-10.1(B) NMSA 1978, which requires, as a condition of license renewal, evidence of completion of post-graduate study as required by board rule.
[16.21.8.3 NMAC - N, 10-15-04]

16.21.8.4 DURATION: Permanent.
[16.21.8.4 NMAC - N, 10-15-04]

16.21.8.5 EFFECTIVE DATE: October 15, 2004, unless a later date is cited at the end of a section.
[16.21.8.5 NMAC - N, 10-15-04]

16.21.8.6 OBJECTIVE: To establish the criteria, standards, approval requirements, verification and waiver requirements, for post-graduate study required by the board for license renewal.
[16.21.8.6 NMAC - N, 10-15-04]

16.21.8.7 DEFINITIONS: [RESERVED]

16.21.8.8 HOURS REQUIRED: Sixteen hours of continuing education are required annually, with two hours specifically related to pain management as defined in 16.21.9.11 NMAC; or 32 hours bi-annually with four hours specifically related to pain management. Initial licenses issued for a period of less than six months do not require any continuing education for the initial licensing period. Licenses issued for more than six months but less than twelve months require eight hours of continuing education for the initial licensing period.

- A. Continuing education coursework must contribute directly to the practice of podiatric medicine.
- B. One hour of credit will be granted for every contact hour of instruction. This credit shall apply to either academic or clinical instruction.

[16.21.8.8 NMAC - Rp, Rule VII.A, 10-15-04; A, 7-15-07; A, 11-01-13]

16.21.8.9 APPROVED COURSES: Continuing education courses offered or sponsored by the following organizations are automatically approved by the board:

- A. a college of podiatric medicine which is accredited by the "CPME" of the American podiatric medical association;
- B. constituent society of the American podiatric medical association;
- C. an organization or sponsor approved by the "CPME" of the American podiatric medical association; or
- D. hospital sponsored in-service programs related to the practice of podiatry.

[16.21.8.9 NMAC - Rp, Rule VII.B, 10-15-04; A, 07-29-11]

16.21.8.10 APPROVAL REQUIREMENTS: Any course not sponsored by a recognized provider may be approved by the board secretary or designee of the board. The application for approval must include the name of the course, the sponsor, course outline, date, location, hours, names and qualifications of presenters, and the method that will be used to certify attendance.
[16.21.8.10 NMAC - Rp, Rule VII.C, 10-15-04]

16.21.8.11 COURSES NOT ALLOWED: Courses dealing with money management, personal finances or personal business matters, and courses in basic educational or cultural subjects that are not taught in direct relationship to podiatric care may not be used to fulfill continuing education requirements.

[16.21.8.11 NMAC - N, 10-15-04]

16.21.8.12 VERIFICATION OF COURSE ATTENDANCE: The following documents, or combination of documents, may be used to verify attendance in required continuing education.

- A. Course certificate with the course title, content, presenter, sponsor and hours.
- B. Pamphlet of course with same information as requested on certificate, along with proof of payment.
- C. Course attendance sheet submitted by the sponsor.
- D. Course code or statement of attendance from presenter or sponsor.

[16.21.8.12 NMAC - Rp, Rule VII.D, 10-15-04; A, 07-29-11]

16.21.8.13 VERIFICATION OF CONTINUING EDUCATION HOURS: Each podiatrist renewing a license shall attest that they have obtained the required hours of CME. Documentation of CME is not required unless you are selected for the annual CME compliance audit. If you are selected for audit you will be notified and provided with instructions for compliance. The board may audit CME records at any time, so CME records must be maintained for at least one year following the renewal cycle in which they are earned.

[16.21.8.13 NMAC - N, 10-15-04; A, 07-29-11; A, 11-01-13]

16.21.8.14 [RESERVED]

16.21.8.15 WAIVER OF REQUIREMENTS: Waivers of the continuing education requirement may be considered for the following situations for licensees.

- A. During periods of prolonged illness or physical incapacity.
 - (1) For the purposes of this rule, the duration of a prolonged illness or physical incapacity period will be defined as longer than six months.
 - (2) Any licensee who wishes to apply for this type of waiver of continuing education must submit in writing a letter detailing the nature of the illness or incapacity and its probable duration. The board will review this waiver request and allow the licensee or the licensee's representative to attend board meeting to present evidence of support of this waiver request and to speak to the board concerning the petition for waiver. The burden shall be on the licensee to prove to the board the necessity of the waiver. The decision of the board on the waiver shall be final.
- B. Any licensee who believes that she or he is entitled to a waiver of a continuing education requirement for reasons of prolonged illness or physical incapacity shall request such a waiver by sending the board a letter from his or her physician setting out in detail the nature of the illness or incapacity and its probable duration. The board shall notify the licensee in writing of the date on which the application will be considered by the board. The licensee or the licensee's representative may attend the meeting, present evidence on behalf of a petition for waiver, and to speak to the board concerning the petition. The burden shall be on the licensee to satisfy the board of the necessity of the waiver. The decision of the board on the waiver shall be final.
- C. Licensee in the United States military practicing or residing outside the United States shall not be required to fulfill the continuing education requirements for the period of the absence.
 - (1) The board must be notified prior to license expiration that the licensee will be outside the United States, including the period of the absence.
 - (2) Upon return to the United States, the licensee shall complete the continuing education required for the years of practice within the US during the renewal cycle, or apply in writing to the board detailing reason for deferral of this requirement.
- D. Applications for waiver under this section must be filed as soon as the licensee has reason to believe that grounds for the waiver exist.

[16.21.8.15 NMAC - Rp, Rule VII.E, 10-15-04; A, 7-15-07; A, 11-01-13]

16.21.8.16 EXTENSION TO MEET REQUIREMENTS: The board may extend the time in which a licensee may meet the required continuing education requirements.

- A. A licensee unable to fulfill the continuing education requirements may apply to the board for an extension of time in which to meet educational requirements. Extensions of up to three months may be granted by the board or its designee. Licensees granted an extension must pay the late fee defined in Subsection F of 16.21.2.8 NMAC to cover the cost of additional processing requirements.
- B. A licensee who is unable to fulfill the requirements within the three month extension must apply to the board for an additional extension.

[16.21.8.16 NMAC - N, 10-15-04]

HISTORY of 16.21.8 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the commission of public records - state records center and archives:

Rule VII, Continuing Education, filed 7-21-80;

Rule VII, Continuing Education, filed 10-6-87;

Rule VII, Continuing Education, filed 8-18-89.

History of Repealed Material: Rule VI, Renewal Of License (filed 8-18-89), repealed 10-15-2004.

Other History:

Rule VII, Continuing Education (filed 8-18-89) was renumbered, reformatted and replaced by 16.21.8 NMAC, Continuing Education, effective 10-15-2004.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 21 PODIATRISTS
PART 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 PRESCRIPTIVE 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 may authorize delegate(s) to access the prescription monitoring report consistent with board of pharmacy regulation 16.19.29 NMAC. While a practitioner's delegate may obtain a report from the state's prescription monitoring program, the practitioner is solely responsible for reviewing the prescription monitoring report and documenting the receipt and review of a report in the patient's medical record.

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

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

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

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

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

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

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

G. Upon recognizing any of the above conditions described in Subparagraph F of 16.21.9 NMAC, the practitioner, using professional judgment based on prevailing standards of practice, shall take action as appropriate to prevent, mitigate, or resolve any potential problems or risks that may result in opioid misuse, abuse, or overdose including reporting of health care providers to their licensing board if prevailing prescribing standards are being deviated from. These steps may involve counseling the patient on known risks and realistic benefits of opioid therapy, prescription and training for naloxone, consultation with or referral to a pain management specialist, or offering or arranging treatment for opioid or substance use disorder. The practitioner shall document actions taken to prevent, mitigate, or resolve the potential problems or risks.

[16.21.9.10 NMAC - N, 11/01/13; A, 12/30/2016]

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]

HISTORY OF 16.21.9 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 21 PODIATRISTS
PART 10 LAPSE OF LICENSE AND REINSTATEMENT

16.21.10.1 ISSUING AGENCY: Regulation and Licensing Department, NM Board of Podiatry
[16.21.10.1 NMAC - N, 10-15-04]

16.21.10.2 SCOPE: Podiatrists licensed in New Mexico who do not submit an application for license renewal within sixty days of the expiration date.
[16.21.10.2 NMAC - N, 10-15-04]

16.21.10.3 STATUTORY AUTHORITY: This rule is promulgated pursuant to the Podiatry Act, 61-8-10 NMSA 1978, and 61-8-10.1 NMSA 1978.
[16.21.10.3 NMAC - N, 10-15-04]

16.21.10.4 DURATION: Permanent.
[16.21.10.4 NMAC - N, 10-15-04]

16.21.10.5 EFFECTIVE DATE: October 15, 2004, unless a later date is cited at the end of a section.
[16.21.10.5 NMAC - N, 10-15-04]

16.21.10.6 OBJECTIVE: To establish the procedures and policies for podiatry licenses that are not renewed within 60 days of the date of expiration.
[16.21.10.6 NMAC - N, 10-15-04]

16.21.10.7 DEFINITIONS: [RESERVED]

16.21.10.8 LICENSE SUSPENSION FOR NON-RENEWAL: Unless an application for license renewal is received by the board office, or post-marked, before March 1, the license may be summarily suspended.
[16.21.10.8 NMAC - Rp, Rule VI.B, 10-15-04]

16.21.10.9 REINSTATEMENT OF SUSPENDED LICENSE: A podiatrist may request reinstatement of a lapsed license within three (3) years from the date the license expired by notifying the board in writing. Upon receipt of the request for reinstatement, board staff will send a reinstatement application. The board may designate a professional background information service, which compiles background information regarding an applicant from multiple sources. The following information is required for the request to be considered:

A. a completed application, payment of the reinstatement fee, any delinquent renewal fees, and proof of sixteen hours of continuing education per the year of renewal and each full year the license was allowed to lapse;

B. the application may be approved by the designee of the board if the application is complete and all requirements have been fulfilled;

C. verification of licensure in all states where the applicant holds or has held a license to practice podiatry, or other health care profession; verification must be sent directly to the board office from the other state(s) and must attest to the status, issue date, license number, and other information contained in the form;

D. the board required reports from the national practitioners data bank, or other national reporting organization, and the federation of podiatric medical boards disciplinary data bank if the applicant is currently licensed, or has previously been licensed as a podiatrist in another state;

E. no podiatrist shall reactivate or resume their podiatric practice until his or her lapsed license is reinstated and a new license is issued;

F. upon receipt of a completed application, including all required documentation and fees, the secretary-treasurer or the delegate of the board will review and may approve the application. The results of the background check must either indicate no negative findings, or if there are negative findings, those findings will be considered by the board. The board may formally accept the approval of the application at the next scheduled meeting.

[16.21.10.9 NMAC - Rp, Rule VI.A&B, 10-15-04; A, 7-15-07; A, 11-01-13]

16.21.10.10 REINSTATEMENT FOR LICENSEES WHO PRACTICE AS MEDICAL OFFICERS IN THE UNITED STATES SERVICE: Licensed podiatrists who practice podiatry in the uniformed services may reinstate their expired New Mexico license within three months after the termination of such service without payment of any renewal, late or reinstatement fees as per the Podiatry Act, Section 61-8-10(C) NMSA 1978. Individuals using this option must notify the board prior to the expiration date of their license that they will not renew until the time they terminate their uniformed service practice.
[16.21.10.10 NMAC - N, 10-15-04]

HISTORY of 16.21.10 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the commission of public records - state records center and archives:

Rule VI, Renewal of License, filed 7-21-80;

Rule VI, Renewal of License, filed 8-18-89.

History of the Repealed Material:

Rule VI, Renewal of License (filed 8-18-89), repealed 10-15-2004.

Other History:

That applicable portion of Rule VI, Renewal of License (filed 8-18-89) was replaced by 16.21.10 NMAC, Lapse of License and Reinstatement, effective 10-15-2004.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 21 PODIATRISTS
PART 11 DISCIPLINARY PROCEEDINGS

16.21.11.1 ISSUING AGENCY: Regulation and Licensing Department, NM Board of Podiatry.
[16.21.11.1 NMAC - N, 10-15-04]

16.21.11.2 SCOPE: The provisions of Part 11 apply to all active license holders and applicants for licensure. These provisions may also be of interest to anyone who may wish to file a complaint against a podiatrist licensed by the board.
[16.21.11.2 NMAC - N, 10-15-04]

16.21.11.3 STATUTORY AUTHORITY: This rule is promulgated pursuant to the Podiatry Act, 61-8-6 NMSA 1978, 61-8-11 NMSA 1978, and 61-8-13 NMSA 1978.
[16.21.11.3 NMAC - N, 10-15-04]

16.21.11.4 DURATION: Permanent.
[16.21.11.4 NMAC - N, 10-15-04]

16.21.11.5 EFFECTIVE DATE: October 15, 2004, unless a different date is cited at the end of a section.
[16.21.11.5 NMAC - N, 10-15-04]

16.21.11.6 OBJECTIVE: To establish the procedures for filing complaints against licensees, the disciplinary actions available to the board, the authority to issue investigative subpoenas and to define conduct that constitutes incompetent or unprofessional practice.
[16.21.11.6 NMAC - N, 10-15-04]

16.21.11.7 DEFINITIONS: [RESERVED]

16.21.11.8 COMPLAINTS: Disciplinary proceedings may be instituted by the sworn complaint of any person, including members of the board. The complaint will be reviewed by the board and any subsequent disciplinary action shall conform with the Uniform Licensing Act, Sections 61-1-1, et. seq., NMSA 1978.

A. No member of the board or any investigators or representatives appointed by the board shall bear liability or be subject to civil damages or criminal prosecutions for any action undertaken or performed within the proper functions of the board.

B. No person or legal entity providing information to the board whether as a report, a complaint or testimony, shall be subject to civil damages or criminal prosecutions.

C. All written and oral communications made by any person to the board or the committee relating to actual or potential disciplinary action, which includes complaints made to the board, shall be confidential communications and are not public records for the purposes of the Public Records Act.

D. Information contained in compliance files in public information and subject to disclosure following formal disciplinary proceedings.

[16.21.11.8 NMAC - Rp, Rule XV.A, 10-15-04; A, 7-15-07]

16.21.11.9 ACTIONS: The board may take any action authorized by the Podiatry Act, Section 61-8-1, et. seq., NMSA 1978 and the Uniform Licensing Act, 61-1-1, et. seq. NMSA 1978 if the board determines that a licensee has violated any of the provisions of the Podiatry Act, the rules, or the Impaired Health Care Provider Act, 61-7-1 NMSA 1978.
[16.21.11.9 NMAC - Rp, Rule XV.B, 10-15-04]

16.21.11.10 SUSPENSION, REVOCATION OR REFUSAL OF A LICENSE: For the purpose of the Podiatry Act, Section 61.8.11.10 NMSA 1978 of, the following may apply.

A. "Gross negligence" or "gross incompetency" means, but shall not be limited to, a significant departure from the prevailing standard of care in treating patients, or any act or omission by a podiatrist such as to indicate a willful act or injury to the patient, or such incompetence on the part of the podiatrist as to render the podiatrist unfit to hold himself out to the public as a licensed podiatrist.

B. "Unprofessional conduct" means, but is not limited to:

- (1) performing, or holding oneself out as able to perform, professional services beyond the scope of one's license and field or fields of competence as established by education, experience, training, or any combination thereof; this includes, but is not limited to, the use of any instrument or device in a manner that is not in accordance with the customary standards and practices of the profession;
- (2) practicing beyond the scope of practice of a podiatrist as defined by the Podiatry Act, Section 61-8-1 NMSA 1978, or board rule;
- (3) failure of a podiatrist to comply with the following advertising guidelines:
 - (a) shall not advertise in a false, fraudulent or misleading manner;
 - (b) shall include in the advertisement the podiatrist's name or medical group name, address and telephone number;
- (4) the making of false or misleading statement in communication with patients or potential patients;
- (5) the use of misleading or deceptive titles or designations in a name or title of a podiatric practice, including the unauthorized advertisement of a specialty designation;
- (6) failure to release to a patient copies of that patient's records and x-rays; in a reasonable period of time;
- (7) conviction of a felony; a certified copy of the record of the court of conviction shall be proof of such conviction;
- (8) impersonating another person licensed to practice podiatry or permitting or allowing any person to use his license or certificate of registration;
- (9) failure to obtain informed consent prior to incisional surgical treatment;
- (10) deliberate and willful failure to reveal, at the request of the board, the incompetent, dishonest, or corrupt practices of another podiatrist licensed or applying for licensure by the board;
- (11) accept rebates, or split fees or commissions from any source associated with the service rendered to a patient; provided, however, the sharing of profits in a professional partnership, association, HMO, or similar association shall not be construed as fee-splitting;
- (12) injudicious prescribing, administration, or dispensing of any drug or medicine;
- (13) sexual misconduct;
- (14) the use of a false, fraudulent or deceptive statement in any document connected with the practice of podiatry;
- (15) the falsifying of medical records, whether or not for personal gain;
- (16) any intentional conduct or practice which is harmful or dangerous to the health of the patient;
- (17) fraud, deceit or misrepresentation in any renewal or reinstatement application;
- (18) obtaining or attempting to obtain a license through fraud, misrepresentation, or other dishonesty;
- (19) cheating on an examination for licensure;
- (20) violation of any order of the board, including any probation order;
- (21) treating patients when the podiatrist is under the influence of alcohol, illegal drugs, or injudicious use of prescription medications; or
- (22) failure to report to the board the involuntary surrender of a license to practice in another state, or involuntary surrender of membership on any medical staff or in any podiatric or professional association or society, in lieu of, and while under disciplinary investigation by any authority;
- (23) willful abandonment of a patient;
- (24) has failed to furnish the board, its investigators or its representatives with information requested by the board or the committee in the course of an official investigation;
- (25) breach of ethical standards, an inquiry into which the board will begin by reference to the code of ethics of the American podiatric medical association.

[16.21.11.10 NMAC - Rp, Rules VIII, X, & XV, 10-15-04; A, 7-15-07; A, 07-29-11; A, 11-01-13]

16.21.11.11 INVESTIGATIVE SUBPOENAS: The board secretary or other designee of the board is authorized to issue investigative subpoenas prior to the issuance of a notice of contemplated action and to employ experts with regard to pending investigations.

[16.21.11.11 NMAC - N, 10-15-04]

16.21.11.12 DELEGATION OF AUTHORITY: The authority of the New Mexico board of podiatry to issue a notice of contemplated action against any licensee/registrant or applicant for licensure/registration whose name appears on the certified list issued by the New Mexico department of human services, as provided in NMSA 1978,

40-5A-1, et seq, and to refer cases in which notices of contemplated action have been issued for administrative prosecution, is delegated to the administrator of the board. This section shall be not be construed to deprive the board of its authority and power to issue a notice of contemplated action for any apparent violation of the Parental Responsibility Act, and to refer any such case for administrative prosecution.
[16.21.11.12 NMAC - N, 07-29-11]

HISTORY of 16.21.11 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the commission of public records - state records center and archives:

Rule VIII, Dishonest or Unprofessional Conduct Defined, filed 7-21-80;

Rule X, Gross Malpractice Defined, filed 7-21-80;

Rule XV, Complaints and Disciplinary Proceedings, filed 1-28-91.

History of the Repealed Material:

Rule VIII, Dishonest or Unprofessional Conduct Defined (filed 7-21-80); Rule X, Gross Malpractice Defined (filed 7-21-80); and Rule XV, Complaints and Disciplinary Proceedings (filed 1-28-91) all repealed 10-15-2004.

Other History:

Those applicable portions of Rule VIII, Dishonest Or Unprofessional Conduct Defined (filed 7-21-80); Rule X, Gross Malpractice Defined (filed 7-21-80); and Rule XV, Complaints and Disciplinary Proceedings (filed 1-28-91) were replaced by 16.21.11 NMAC, Disciplinary Proceedings, effective 10-15-2004.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 21 PODIATRISTS
PART 12 MANAGEMENT OF MEDICAL RECORDS

16.21.12.1 ISSUING AGENCY: Regulation and Licensing Department, NM Board of Podiatry hereafter called the board.
[16.21.12.1 NMAC - N, 7-15-07]

16.21.12.2 SCOPE: This part governs the use management of medical records that are created and maintained as part of the practice of a podiatrist who has physical possession or ownership of the records.
[16.21.12.2 NMAC - N, 7-15-07]

16.21.12.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to and in accordance with the Podiatry Act, Section 61-8-9 NMSA 1978.
[16.21.12.3 NMAC - N, 7-15-07]

16.21.12.4 DURATION: Permanent
[16.21.12.4 NMAC - N, 7-15-07]

16.21.12.5 EFFECTIVE DATE: July 15, 2007, unless a later date is cited at the end of a section.
[16.21.12.5 NMAC - N, 7-15-07]

16.21.12.6 OBJECTIVE: This part establishes requirements and procedures for management of medical records.
[16.21.12.6 NMAC - N, 7-15-07]

16.21.12.7 DEFINITIONS: "Medical record" means all information maintained by a podiatrist relating to the past, present or future physical health or condition of a patient, and for the provision of health care to a patient. This information includes, but is not limited to, the podiatrist's notes, reports and summaries, and x-rays and laboratory and other diagnostic test results. A patient's complete medical record includes information generated and maintained by the podiatrist, as well as information provided to the podiatrist by the patient, by any other podiatrist who has consulted with or treated the patient, and other information acquired by the podiatrist about the patient in connection with the provision of health care to the patient.
[16.21.12.7 NMAC - N, 7-15-07]

16.21.12.8 RELEASE OF MEDICAL RECORDS: Podiatrists must provide complete copies of medical records to a patient or to another podiatrist in a timely manner when legally requested to do so by the patient or by a legally designated representative of the patient. This should occur with a minimum of disruption in the continuity and quality of medical care being provided to the patient. If the medical records are the property of a separate and independent organization, the podiatrist should act as the patient's advocate and work to facilitate the patient's request for records.

A. Medical records may not be withheld because an account is overdue or a bill for treatment, medical records, or other services is owed.

B. A reasonable cost-based charge may be made for the cost of duplicating and mailing medical records. A reasonable charge is \$1.00 per page for the first 25 pages, and \$0.10 per page thereafter. Patients may be charged the actual cost of reproduction for electronic records and record formats other than paper, such as x-rays. The board will review the reasonable charge periodically. Podiatrists charging for the cost of reproduction of medical records shall give consideration to the ethical and professional duties owed to other podiatrists and their patients.

[16.21.12.8 NMAC - N, 7-15-07]

16.21.12.9 CLOSING, SELLING, RELOCATING OR LEAVING A PRACTICE: Due care should be taken when closing or departing from a practice to ensure a smooth transition from the current podiatrist to the new treating podiatrist. This should occur with a minimum of disruption in the continuity and quality of medical care being provided to the patient. Whenever possible, notification of patients is the responsibility of the current treating podiatrist.

A. Active patients and patients seen within the previous three years must be notified at least 30 days before closing, selling, relocating or leaving a practice.

B. Whenever possible, patients should be notified within at least 30 days after the death of their podiatrist.

C. Notification shall be through a notice in newspaper in the local practice area, and should include responsible entity/agent name of contact to obtain records or request transfer of records, telephone number and mailing address. To reach a maximum number of patients, the notification must run a minimum of two times per month for three months. In addition to a notice in the newspaper, notification may also be through an individual letter to the patient's last known address. Notification shall also be sent to the board.

D. Notification should include:

(1) responsible entity/agent name of contact to obtain records or request transfer of records, telephone number and mailing address;

(2) how the records can be obtained or transferred;

(3) how long the records will be maintained before they are destroyed; and

(4) cost of recovering/transferring records.

E. A podiatrist or podiatrist group should not withhold patient lists or other information from a departing podiatrist that is necessary for notification of patients.

F. Patients of a podiatrist who leaves a group practice must be notified the podiatrist is leaving, notified of the podiatrist's new address and offered the opportunity to have their medical records transferred to the departing podiatrist at their new practice.

G. When a practice is sold, all active patients must be notified that the podiatrist is transferring the practice to another podiatrist or entity who will retain custody of their records and that at their written request the records (or copies) will be sent to another podiatrist or entity of their choice.

[16.21.12.9 NMAC - N, 7-15-07]

16.21.12.10 RETENTION, MAINTENANCE AND DESTRUCTION OF MEDICAL RECORDS:

A. Improper management of medical records, including failure to maintain timely, accurate, legible and complete medical records constitutes unprofessional conduct under the board's rules adopted pursuant to 61-8-11(H). Podiatric physicians must maintain and make available upon request a written copy of their policy or their employer's policy for medical record retention, maintenance and destruction.

B. Written medical record policy shall include:

(1) responsible entity/agent name of contact to obtain records or request transfer of records, telephone number and mailing address;

(2) how the records can be obtained or transferred;

(3) how long the records will be maintained before they are destroyed; and

(4) cost of obtaining copies of records, and of recovering records/transferring records.

C. Electronic medical record policy shall include:

(1) responsible entity/agent name of contact to obtain records or request transfer of records, telephone number and mailing address;

(2) how the records can be obtained or transferred;

(3) how long the records will be maintained before destroyed;

(4) a data backup plan, disaster recovery plan and storage which ensures retrievability into reasonably usable form on a timely basis upon any request; and

(5) transfer of data via electronic file with appropriate safeguards to ensure patient confidentiality.

D. Podiatric physicians must retain medical records that they own for at least seven years. Medical records for patients who are minors must be retained for at least two years beyond the date that the patient is 18 years old.

E. Podiatric physicians shall retain medical billing information for at least two years after the date of last treatment.

F. A log must be kept of all charts destroyed, including the patient's name and date of record destruction.

G. If conversion of hard copies of medical records occurs to electronic format, the hard copy shall be retained by the physician for a minimum of 30 days after electronic transfer has occurred.

H. Destruction of medical records must be such that confidentiality is maintained. Records must be destroyed by shredding, incinerating (where permitted) or by other method of permanent destruction, including

purging of medical records from a computer hard drive, server hard drive or other computer media or disk in accordance with existing practices for data deletion then available.
[16.21.12.10 NMAC - N, 07-29-11]

History of 16.21.12 NMAC: [RESERVED]