

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 2 ACUPUNCTURE AND ORIENTAL MEDICINE PRACTITIONERS
PART 1 GENERAL PROVISIONS

16.2.1.1 ISSUING AGENCY: New Mexico Board of Acupuncture and Oriental Medicine.
[7/1/1996; 16.2.1.1 NMAC - Rn, 16 NMAC 2.1.1, 8/13/2001]

16.2.1.2 SCOPE: All licensed doctors of oriental medicine, applicants, temporary licensees, applicants for temporary licensure, doctors of oriental medicine certified for expanded practice and applicants for certification, educational courses, externs, auricular detoxification specialists, educational programs and applicants for approval of educational programs.
[7/1/1996; 16.2.1.2 NMAC - Rn & A, 16 NMAC 2.1.2, 8/13/2001; A, 2/15/2005; A, 11/28/2009]

16.2.1.3 STATUTORY AUTHORITY: This part is promulgated pursuant to the Acupuncture and Oriental Medicine Practice Act, Sections 61-14A-1, 2, 3, 7, 8, 8.1, 14.1 and 9, NMSA 1978.
[7/1/1996; 16.2.1.3 NMAC - Rn & A, 16 NMAC 2.1.3, 8/13/2001]

16.2.1.4 DURATION: Permanent.
[7/1/1996; 16.2.1.4 NMAC - Rn, 16 NMAC 2.1.4, 8/13/2001]

16.2.1.5 EFFECTIVE DATE: July 1, 1996 unless a later date is cited at the end of a section or paragraph.
[7/1/1996, A, 8/31/1998; 16.2.1.5 NMAC - Rn, 16 NMAC 2.1.5, 8/13/2001]

16.2.1.6 OBJECTIVE: This part provides definitions for terms used in the rules in addition to those definitions in the Act, lists the board's duties, clarifies what are not public records, provides for inspection of the board's public records, and provides for telephone conferences.
[7/1/1996; 16.2.1.6 NMAC - Rn & A, 16 NMAC 2.1.6, 8/13/2001]

16.2.1.7 DEFINITIONS:

A. The definitions in Subsection B of 16.2.1.7 NMAC are in addition to those in the act.

B. The following definitions apply to the rules and the act.

(1) "A4M" is the American academy of anti-aging medicine.

(2) "ACAM" is the American college of alternative medicine.

(3) "ACAOM" is the accreditation commission for acupuncture and oriental medicine.

(4) "AMA" is the American medical association.

(5) "Act" is the Acupuncture and Oriental Medicine Practice Act, Sections 61-14A-1 through 61-14A-22 NMSA 1978.

(6) "Animal acupuncture" is acupuncture performed on any animal other than man. Animal acupuncture is authorized under the supervision of a doctor of veterinary medicine licensed in New Mexico and only under the guidelines of the rules of the New Mexico Veterinary Practice Act (61-14-1. to 61-14-20) and the rules of the New Mexico board of veterinary medicine (16.25.9.15 NMAC).

(7) "Applicant" is a person who has submitted to the board an application for licensure as a doctor of oriental medicine.

(8) "Applicant for temporary licensure" is a person who has submitted to the board an application for temporary licensure as a doctor of oriental medicine.

(9) "Auricular acupuncture detoxification" is an acupuncture related technique used only in the treatment and prevention of alcoholism, substance abuse and chemical dependency. Auricular acupuncture detoxification may be described or referred to as "auricular detoxification", "acupuncture detoxification", "auricular acupuncture detoxification", or "acudetox".

(10) "Auricular detoxification specialist supervisor" is a doctor of oriental medicine registered with the board under the provisions of 16.2.16.18 NMAC.

(11) "Auricular detoxification specialist training program" is a training program approved by the board under the provisions of 16.2.16.26 NMAC to train certified auricular detoxification specialists and auricular detoxification supervisors.

(12) "Auricular detoxification specialist training program trainer" is a member of the staff of an auricular detoxification specialist training program who, though not necessarily licensed or certified by

the state, shall be deemed to be a certified auricular detoxification specialist only for the purposes of and only for the duration of the auricular detoxification specialist training program.

(13) **“Authorized substances”** are the specific substances defined in the four certification in 16.2.20 NMAC that are authorized according to 61-14A-8.1 of the act for prescription, administration, compounding and dispensing by a doctor of oriental medicine certified for a specific category of expanded practice as defined in 16.2.19 NMAC.

(14) **“Bioidentical hormones”** means compounds, or salt forms of those compounds, that have exactly the same chemical and molecular structure as hormones that are produced in the human body.

(15) **“Biomedical diagnosis”** is a diagnosis of a person’s medical status based on the commonly agreed upon guidelines of conventional biomedicine as classified in the most current edition or revision of the international classification of diseases, ninth revision, clinical modification (ICD-9-CM).

(16) **“Biomedicine”** is the application of the principles of the natural sciences to clinical medicine.

(17) **“Certified auricular detoxification specialist”** is a person certified by the board under the provisions of 16.2.16.10 NMAC to perform auricular detoxification techniques, only on the ears, only in the context of an established treatment program and only under the supervision of an auricular detoxification supervisor registered with the board. A person certified pursuant to 61-14A-4.1(B) shall use the title of “certified auricular detoxification specialist” or “C.A.D.S.”

(18) **“Chief officer”** is the board’s chairperson or his or her designee serving to administer the pre-hearing procedural matters of disciplinary proceedings.

(19) **“Clinical skills examination”** is a board approved, validated, objective practical examination that demonstrates the applicants entry level knowledge of and competency and skill in the application of the diagnostic and treatment techniques of acupuncture and oriental medicine and of biomedicine.

(20) **“Clinical experience”** is the practice of acupuncture and oriental medicine as defined in the act, after initial licensure, certification, registration or legal recognition in any jurisdiction to practice acupuncture and oriental medicine. A year of clinical experience shall consist of not less than five hundred (500) patient hours of licensed acupuncture and oriental medical practice within a calendar year, seeing at least twenty five (25) different patients within that year. One (1) patient hour is defined as one (1) clock hour spent in the practice of oriental medicine with patients.

(21) **“Complainant”** is the complaining party.

(22) **“Complaint committee”** is a board committee composed of the complaint committee chairperson and the complaint manager.

(23) **“Complaint committee chairperson”** is a member of the board appointed by the board’s chairperson.

(24) **“Complaint manager”** is the board’s administrator or any member of the board appointed by the board’s chairperson.

(25) **“Department”** is the state of New Mexico regulation and licensing department.

(26) **“Doctor of oriental medicine”** is a physician licensed to practice acupuncture and oriental medicine pursuant to the act and as such has responsibility for his or her patient as a primary care physician or independent specialty care physician.

(27) **“Detoxification”** is a concept in integrative medicine based on the principle that illnesses can be caused by the accumulation of toxic substances (toxins) in the body. Therapeutic support of elimination of these toxins is detoxification.

(28) **“Educational course”** is a comprehensive foundation of studies, approved by the board leading to demonstration of entry level competence in the specified knowledge and skills required for the four (4) respective certifications in expanded practice. An educational course is not an educational program as this term is used in the act and the rules and as defined in 16.2.1 NMAC.

(29) **“Educational program”** is a board approved complete formal program that has the goal of educating a person to be qualified for licensure as a doctor of oriental medicine in New Mexico, is at least four (4) academic years and meets the requirements of Section 61-14A-14 of the act and 16.2.7 NMAC.

(30) **“Expanded practice”** is authorized by Section 61-14-8.1 of the act and is granted to a doctor of oriental medicine who is certified by the board after fulfilling the requirements, in addition to those necessary for licensure, defined in 16.2.19 NMAC. Expanded practice is in addition to the prescriptive authority granted all licensed doctors of oriental medicine as defined in Section 61-14A-3.G.(2) of the act.

(31) **“Extern”** is a current applicant undergoing supervised clinical training by an externship supervisor, and who has satisfied the application requirements for extern certification and who has received an extern certification issued by the board pursuant to 16.2.14 NMAC.

(32) **“Externship”** is the limited practice of oriental medicine in New Mexico by an extern supervised by an externship supervisor pursuant to 16.2.14 NMAC.

(33) **“Externship supervisor”** is a doctor of oriental medicine who has at least five (5) years clinical experience, maintains a clinical facility and maintains appropriate professional and facility insurance, and who has satisfied the board’s application requirements for an externship supervisor and has received an externship supervisor registration issued by the board pursuant to 16.2.14 NMAC.

(34) **“Good cause”** is the inability to comply because of serious accident, injury or illness, or the inability to comply because of the existence of an unforeseen, extraordinary circumstance beyond the control of the person asserting good cause that would result in undue hardship. The person asserting good cause shall have the burden to demonstrate that good cause exists.

(35) **“Inactive licensee”** means a licensee in good standing whose license is placed on inactive status by the board and is therefore considered an inactive license in compliance with 16.2.15 NMAC.

(36) **“ICE”** is the institute for credentialing excellence.

(37) **“IFM”** is the institute for functional medicine.

(38) **“Licensee”** is a doctor of oriental medicine licensed pursuant to the act.

~~[(39)] **“Licensing candidate”** is an applicant whose initial application for licensure as a doctor of oriental medicine has been approved by the board.]~~

[(39)] **“License”** has the same meaning as defined in Subsection F(1) of Section 61-1-34 NMSA 1978.

[(40)] **“Licensing candidate”** is an applicant whose initial application for licensure as a doctor of oriental medicine has been approved by the board.

[(41)] **“Licensing fee”** has the same meaning as defined in Subsection F(2) of Section 61-1-34

NMSA 1978.

~~[(40)]~~[(42)] **“Licensure by endorsement”** is a licensing procedure for the experienced practitioner who completed his initial education in acupuncture and oriental medicine prior to the establishment of current educational standards and who has demonstrated his or her competency through a combination of education, examination, authorized legal practice and clinical experience as defined in 16.2.17 NMAC. Completion of the licensure by endorsement process results in full licensure as a doctor of oriental medicine.

~~[(44)]~~[(43)] **“Limited temporary license”** is a license issued under the provisions of 16.2.5.12 NMAC for the exclusive purpose of teaching a single complete course in acupuncture and oriental medicine and assisting in the implementation of new techniques in acupuncture and oriental medicine including the study of such techniques by licensed, registered, certified or legally recognized healthcare practitioners from jurisdictions other than New Mexico. A limited temporary license shall be required for any person who demonstrates, practices or performs diagnostic and treatment techniques on another person as part of teaching or assisting in the implementation of new techniques, if they are not a licensee or temporary licensee. Limited temporary licenses shall not be issued to teachers for the purpose of teaching full semester courses that are part of an approved educational program.

~~[(42)]~~[(44)] **“Live cell products”** are living cells from glandular tissues and other tissues.

~~[(45)]~~ [(45)] **“Military service member”** has the same meaning as defined in Subsection F(3) of Section 61-1-34 NMSA 1978.

~~[(43)]~~[(46)] **“Natural substances”** are substances that exist in or are produced by nature and have not been substantially transformed in character or use.

~~[(44)]~~[(47)] **“NCA”** is a notice of contemplated action.

~~[(45)]~~[(48)] **“NCCAOM”** is the national certification commission for acupuncture and oriental medicine.

~~[(46)]~~[(49)] **“Office”** is the physical facility used for the practice of acupuncture and oriental medicine and auricular detoxification.

~~[(47)]~~[(50)] **“Oxidative medicine”** is the understanding and evaluation of the oxidation and reduction biochemical functions of the body and the prescription or administration of substances, and the use of devices and therapies to improve the body’s oxidation and reduction function and health.

~~[(48)]~~[(51)] **“Protomorphogens”** are extracts of glandular tissues.

~~[(49)]~~[(52)] **“Respondent”** is the subject of the complaint.

~~(50)~~(53) “Rules” are the rules, promulgated pursuant to the act, governing the implementation and administration of the act as set forth in 16.2 NMAC.

(54) “Substantial equivalent” means the determination by the board that the education, examination, and experience requirements contained in the statutes and rules of another jurisdiction are comparable to, or exceed the education, examination, and experience requirements of the Acupuncture and Oriental Medicine Practice Act, Sections 61-14A-1, et. seq.

~~(51)~~(55) “Supervised clinical observation” is the observation of acupuncture and oriental medical practice, in actual treatment situations under appropriate supervision.

~~(52)~~(56) “Supervised clinical practice” is the application of acupuncture and oriental medical practice, in actual treatment situations under appropriate supervision.

~~(53)~~(57) “Supervision” is the coordination, direction and continued evaluation at first hand of the student in training or engaged in obtaining clinical practice and shall be provided by a qualified instructor or tutor as set forth in 16.2.7 NMAC. No more than four (4) students shall be under supervision for supervised clinical practice and no more than four students shall be under supervision for supervised clinical observation by a qualified instructor at any time.

~~(54)~~(58) “Temporary licensee” is a doctor of oriental medicine who holds a temporary license pursuant to the act, Section 61-14-12 NMSA 1978 and 16.2.5 NMAC.

~~(55)~~(59) “Therapeutic serum” is a product obtained from blood by removing the clot or clot components and the blood cells.

~~(56)~~(60) “Treatment program” is an integrated program that may include medical and counseling services for disease prevention, harm reduction or the treatment or prevention of alcoholism, substance abuse or chemical dependency that is located at a fixed location or in a mobile unit and approved by the board under the provisions of 16.2.16.28 NMAC.

~~(57)~~(61) “USP 797” is the United States pharmacopeia Chapter 797 pharmaceutical compounding.

(62) “Veteran” has the same meaning as defined in Subsection F(4) of Section 61-1-34 NMSA 1978.

[11/13/1981...7/1/1996; N, 8/31/1998; A, 2/17/2000; 16.2.1.7 NMAC - Rn & A, 16 NMAC 2.1.7, 8/13/2001; A, 4/4/2002; A, 3/2/2003; A, 02/15/2005; A, 9/25/2006; A, 11/28/2009; A/E, 6/15/2010; A/E, 6/15/2010; Re-pr & A, 11/28/2010; A, 3/2/2014; Rn & A, 6/16/2015]

16.2.1.8 BOARD DUTIES: In addition to its duties described in the act, the board shall:

- A. Keep a file of all approved educational programs.
- B. Issue certificates of approval of educational programs.
- C. Delegate its ministerial duties if it so chooses.
- D. Notify the governor when any board member has missed three consecutive meetings.
- E. Elect a chairperson and a vice-chairperson at the first board meeting after January first each year.
- F. The board shall perform such other duties and shall exercise such other powers as may be

conferred upon it by statute, or as may be reasonably implied from such statutory powers and duties and as may be reasonably necessary in the performance of its responsibilities under the act.

[7/15/1982...7/1/1996; 16.2.1.8 NMAC - Rn & A, 16 NMAC 2.1.8, 8/13/2001]

16.2.1.9 PUBLIC RECORDS: All records kept by the board shall be available for public inspection pursuant to the New Mexico Inspection of Public Records Act, NMSA 1978, Section 14-2-1, et seq., except as provided herein.

A. During the course of the processing and investigation of a complaint, and before the vote of the board as to whether to dismiss the complaint or to issue a notice of contemplated action as provided in the Uniform Licensing Act, NMSA 1978, Section 61-1-1, et seq., and in order to preserve the integrity of the investigation of the complaint, records and documents that reveal confidential sources, methods, information or licensees accused, but not charged yet with a violation of the act, shall be confidential and shall not be subject to public inspection. Such records shall include evidence in any form received or compiled in connection with any such investigation of the complaint or of the licensee by or on behalf of the board by any investigating agent or agency.

B. Upon the completion of the processing and investigation of the complaint, and upon the decision of the board to dismiss the complaint or to issue a notice of contemplated action, the confidentiality privilege conferred by Subsection A of 16.2.1.9 NMAC shall dissolve, and the records, documents or other evidence pertaining to the complaint and to the investigation of the complaint shall be available for public inspection.

C. All tests and test questions by which applicants are tested shall not be available to public inspection, as there is a countervailing public policy requiring that such records remain confidential in order to ensure the integrity of a licensing exam intended to protect the public health, safety and welfare from incompetent practitioners.

D. The board or its administrator may charge a fee not to exceed one dollar per page for documents 11 inches by 17 inches or smaller in size for copying public records.
[3/19/1991...7/1/1996; 16.2.1.9 NMAC - Rn & A, 16 NMAC 2.1.9, 8/13/2001; A, 3/2/2003; A, 11/28/2009; A, 2/8/2013]

16.2.1.10 TELEPHONE CONFERENCES: Pursuant to the provisions of the Open Meetings Act, Section 10-15-1.C, NMSA 1978, as amended, board members may participate in a meeting of the board by means of a conference telephone or similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person, provided that each board member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting must be able to hear any member of the board who speaks during the meeting. Participation of a board member by such means shall constitute presence in person at the meeting.
[7/1/1996; 16.2.1.10 NMAC - Rn, 16 NMAC 2.1.10, 8/13/2001]

16.2.1.11 DISASTER OR EMERGENCY PROVISION: Doctors of oriental medicine, educational programs and auricular detoxification specialists currently licensed and in good standing or otherwise meeting the requirements for New Mexico licensure in a state which a federal disaster has been declared may apply for licensure in New Mexico under 16.2.1.11 NMAC during the four months following the declared disaster. The application for emergency provisional licensure shall be made to the board and shall include:

A. an application under this provision shall be made to the board that is complete and in English on a form provided by the board that shall include the applicant's name, address, date of birth and social security number accompanied by proof of identity, which may include a copy of drivers license, passport or other photo identification issued by a governmental entity; and the applicants signature on the affidavit made part of the application form;

B. an affidavit attesting to the consequences suffered by the applicant as a result of the federal disaster;

C. evidence of completion of requirements specified in 16.2.3, 16.2.4, 16.2.7, 16.2.10, and 16.2.16 NMAC; if the applicant is unable to obtain documentation from the federal declared disaster area or as a result of the declared federal disaster the board may accept other documentation in lieu of the forms required under 16.2.3, 16.2.4, 16.2.7, 16.2.10, and 16.2.16 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 licensure;

D. exceptions may be made for good cause;

E. an affidavit certifying that all the documents submitted with the application are true and accurate or are faithful copies of the original;

F. nothing in this section shall constitute a waiver of the requirements for licensure contained in 16.2.3, 16.2.4, 16.2.7, 16.2.10, and 16.2.16 NMAC; and

G. the applicant is responsible for reading, understanding and complying with the state of New Mexico laws and rules regarding this application as well as the practice of acupuncture and oriental medicine.

[16.2.1.11 NMAC - N, 9/25/2006; A, 11/28/2009]

History of 16.2.1 NMAC:

Pre-NMAC History:

AB 81-1, Regulations Governing Acupuncture Practitioners, 10/5/1981

AB 82-1, Regulations Governing Acupuncture Practitioners, 6/16/1982

AB 84-1, Regulations Governing Acupuncture Practitioners, Tutors and Institutes, 3/13/1984

BCD 87-1, Emergency Regulations Governing Acupuncture Practitioners, Tutors and Institutes, 10/30/1987

ACU 88-1 Regulations Governing Acupuncture Practitioners, Tutors and Institutes, 3/13/1989

ACU 91-1, Regulations Governing Acupuncture Practitioners, Tutors, and Institutes Definitions, 2/18/1991

Rule 1, Regulations Governing Acupuncture Practitioners, Tutors, and Institutes Authority and Purpose, 8/28/1992

Rule 2, Regulations Governing Acupuncture Practitioners, Tutors, and Institutes Definitions, 8/28/1992

ACU Rule 91-3, Regulations Governing Acupuncture Practitioners, Tutors, and Institutes Administrative

Requirements, 2/18/1991

Rule 3, Regulations Governing Acupuncture Practitioners, Tutors, and Institutes Administrative Requirements, 1/26/1993

ACU Rule 91-13, Regulations Governing Acupuncture Practitioners, Tutors, and Institutes Board Duties, 2/18/1991

Rule 13, Regulations Governing Acupuncture Practitioners, Tutors, and Institutes Board Duties, 8/28/1992

ACU Rule 91-15, Regulations Governing Acupuncture Practitioners, Tutors, and Institutes Pertaining to Open Meeting, Public Records, and Confidentiality, 2/18/1991

Rule 15, Regulations Governing Acupuncture Practitioners, Tutors, and Institutes Pertaining to Open Meetings, Public Records and Confidentiality, 8/28/1992

History of Repealed Material: [RESERVED]

Other History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as: 16 NMAC 2.1, Acupuncture and Oriental Medicine - General Provisions, filed 6/14/1996 -- renumbered, reformatted and amended to 16.2.1 NMAC, effective 8/13/2001.