

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING**  
**CHAPTER 2 ACUPUNCTURE AND ORIENTAL MEDICINE PRACTITIONERS**  
**PART 12 GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF LICENSE**

**16.2.12.1 ISSUING AGENCY:** New Mexico Board of Acupuncture and Oriental Medicine.  
[7/1/1996; 16.2.12.1 NMAC - Rn, 16 NMAC 2.12.1, 8/13/2001]

**16.2.12.2 SCOPE:** All licensees, applicants, temporary licensees, applicants for temporary licensure, limited temporary license holders, limited temporary license applicants, externs, certified auricular detoxification specialists, certified auricular detoxification specialist applicants, auricular detoxification specialist training programs, auricular detoxification specialist training program applicants, educational programs and applicants for approval of educational programs.  
[7/1/1996, A, 8/31/1998; 16.2.12.2 NMAC - Rn & A, 16 NMAC 2.12.2, 8/13/2001; A, 2/15/2005]

**16.2.12.3 STATUTORY AUTHORITY:** This Part is promulgated pursuant to the Acupuncture and Oriental Medicine Practice Act, Sections 61-14A-8, 9 and 17, NMSA 1978.  
[7/1/1996; 16.2.12.3 NMAC - Rn, 16 NMAC 2.12.3, 8/13/2001]

**16.2.12.4 DURATION:** Permanent.  
[7/1/1996; 16.2.12.4 NMAC - Rn, 16 NMAC 2.12.4, 8/13/2001]

**16.2.12.5 EFFECTIVE DATE:** July 1, 1996, unless a later date is cited at the end of a section or paragraph.  
[7/1/1996, 4/1/1997; 16.2.12.5 NMAC - Rn, 16 NMAC 2.12.5, 8/13/2001]

**16.2.12.6 OBJECTIVE:** This part clarifies the grounds for which the board may deny, suspend or revoke a license to practice acupuncture and oriental medicine or otherwise discipline a licensee, applicant, temporary licensee, applicant for temporary licensure, extern, extern supervisor or educational program in addition to those reasons listed in the act in Section 61-14A-17 NMSA 1978.  
[7/1/1996; 16.2.12.6 NMAC - Rn & A, 16 NMAC 2.12.6, 8/13/2001; A, 2/8/2013]

**16.2.12.7 DEFINITIONS:** Refer to definitions in 16.2.1.7 NMAC.  
[7/1/1996; 16.2.12.7 NMAC - Rn, 16 NMAC 2.12.7, 8/13/2001; A, 2/15/2005; A, 11/28/2009]

**16.2.12.8 AUTHORITY AND PROCEDURE:** The board may refuse to issue, or may suspend, or revoke any license, in accordance with the Uniform Licensing Act, 61-1-1 to 61-1-31 NMSA 1978, for reasons authorized in the Act and clarified in 16.2.12 NMAC.  
[3/19/1991...7/1/1996; 16.2.12.8 NMAC - Rn & A, 16 NMAC 2.12.8, 8/13/2001; A, 11/28/2009]

**16.2.12.9 FAILURE TO USE PRE-STERILIZED SINGLE USE NEEDLES:** Pursuant to the Act, Section 61-14A-17.A(3) NMSA 1978, a doctor of oriental medicine, a temporary licensee or an extern shall be guilty of incompetence who fails to use pre-sterilized single use needles.  
[4/11/1989...7/1/1996; A, 8/31/1998; 16.2.12.9 NMAC - Rn & A, 16 NMAC 2.12.9, 8/13/2001]

**16.2.12.10 FAILURE TO FOLLOW PROPER INSTRUMENT STERILIZATION PROCEDURE:** Pursuant to the Act, Section 61-14A-17.A(3) NMSA 1978, a doctor of oriental medicine, a temporary licensee or an extern shall be guilty of incompetence who fails to use sterile instruments or fails to follow proper instrument sterilization procedures including the use of biological monitors and the keeping of accurate records of sterilization cycles and equipment service maintenance as described in the manufacturer's instruction manual, the current edition of "clean needle technique manual for acupuncturists" published by the national acupuncture foundation, and the instrument sterilization protocols used by New Mexico hospitals and the American hospital association.  
[11/3/1981...7/1/1996; A, 8/31/1998; 16.2.12.10 NMAC - Rn & A, 16 NMAC 2.12.10, 8/13/2001]

**16.2.12.11 FAILURE TO FOLLOW CLEAN NEEDLE TECHNIQUE:** Pursuant to the Act, Section 61-14A-17.A(3) NMSA 1978, a doctor of oriental medicine, a temporary licensee or an extern shall be guilty of

incompetence who fails to follow clean needle technique as defined in the current edition of “clean needle technique manual for acupuncturists” published by the national acupuncture foundation.  
[11/3/1981...7/1/1996; A, 8/31/1998; 16.2.12.11 NMAC - Rn & A, 16 NMAC 2.12.11, 8/13/2001]

**16.2.12.12 FALSE REPORTING:** Pursuant to the Act, Section 61-14A-17.A (5) NMSA 1978, a doctor of oriental medicine temporary licensee, applicant, applicant for temporary licensure, extern, educational program or applicants for approval of an educational program shall be guilty of unprofessional conduct who willfully makes or files false reports or records in his or her practice of acupuncture and oriental medicine, or who files false statements for collection of fees for services that were not rendered.  
[4/11/1989...7/1/1996; 16.2.12.12 NMAC - Rn & A, 16 NMAC 2.12.12, 8/13/2001]

**16.2.12.13 OUT OF STATE DISCIPLINARY ACTION:** Pursuant to the Act, Section 61-14A-17.A (3) and (5) NMSA 1978, a doctor of oriental medicine, an applicant, a temporary licensee, an applicant for temporary licensure or an extern shall be guilty of incompetence or unprofessional conduct for any act or omission which has resulted in disciplinary action against him or her by the licensing or disciplinary authority, or court in another state, territory, or country which would constitute incompetence if it had been committed in New Mexico.  
[4/11/1989...7/1/1996; 16.2.12.13 NMAC - Rn & A, 16 NMAC 2.12.13, 8/13/2001]

**16.2.12.14 PROCURING LICENSE BY FRAUD:** Pursuant to the Act, Section 61-14A-17.A (1), NMSA 1978, a doctor of oriental medicine, an applicant, a temporary licensee, an applicant for temporary licensure or an extern shall be guilty of fraud or deceit in procuring or attempting to procure or renew a license or a temporary license to practice in the profession of acupuncture and oriental medicine if he makes false statements, or provides false or misleading information on his or her application.  
[4/11/1989...7/1/1996; 16.2.12.14 NMAC - Rn & A, 16 NMAC 2.12.14, 8/13/2001; A, 11/28/2009]

**16.2.12.15 MISREPRESENTATION:** Pursuant to the Act, Section 61-14A-17.A (5) and (14) NMSA 1978, a doctor of oriental medicine, temporary licensee, extern, educational program or applicant for approval of an educational program shall be guilty of unprofessional conduct and attempting to attract patronage in an unethical manner who guarantees a cure will result from the performance of professional services.  
[11/3/1981...7/1/1996; 16.2.12.15 NMAC - Rn & A, 16 NMAC 2.12.15, 8/13/2001]

**16.2.12.16 FALSE ADVERTISING:** Pursuant to the Act, Section 61-14A-17.A (13) NMSA 1978, a doctor of oriental medicine, temporary licensee, extern, instructor in an educational course or program or applicant for approval of an educational program shall be guilty of advertising by means of knowingly false statements who makes or publishes or causes to be made or published any advertisement, offer, statement or other form of representation, oral or written, that directly or by implication is false, misleading or deceptive.  
[11/3/1981...7/1/1996; 16.2.12.16 NMAC - Rn & A, 16 NMAC 2.12.16, 8/13/2001; A, 11/28/2009]

**16.2.12.17 FALSE ADVERTISING BY APPLICANTS:** Pursuant to the Act, Sections 61-14A-17.A (7) and (13) NMSA 1978, an applicant or an applicant for temporary licensure shall be guilty of violating the provisions of the act, specifically Section 61-14A-4, and shall be guilty of advertising by means of knowingly false statements who advertises his or her practice of acupuncture and oriental medicine if he does such advertising prior to being licensed by the board.  
[4/1/1997; 16.2.12.7 NMAC - Rn, 16 NMAC 2.12.7, 8/13/2001; A, 11/28/2009]

**16.2.12.18 EDUCATIONAL FRAUD:** Pursuant to the Act, Section 61-14A-17.A (5) NMSA 1978, a doctor of oriental medicine, temporary licensee, extern, educational program or applicant for approval of an educational program shall be guilty of unprofessional conduct who practices fraud, deceit, gross negligence, or misconduct in the clinical practice or in relation to the operation of an educational program in acupuncture and oriental medicine.  
[4/11/1989...7/1/1996; 16 NMAC 2.12.17, 4/1/1997; 16.2.12.18 NMAC - Rn & A, 16 NMAC 2.12.18, 8/13/2001]

**16.2.12.19 FAILURE TO KEEP RECORDS:** Pursuant to Section 61-14A-17.A (5) NMSA 1978, a doctor of oriental medicine, temporary licensee, extern, educational program or applicant for approval of an educational program shall be guilty of unprofessional conduct who fails to keep written records reflecting the course of treatment of the patient.  
[4/11/1989...7/1/1996; 16 NMAC 2.12.18, 4/1/1997; 16.2.12.19 NMAC - Rn & A, 16 NMAC 2.12.19, 8/13/2001]

**16.2.12.20 FAILURE TO PROVIDE RECORDS TO PATIENT:** Pursuant to the Act, Section 61-14A-17.A (5) NMSA 1978, a doctor of oriental medicine, temporary licensee, extern, educational program or applicant for approval of an educational program shall be guilty of unprofessional conduct who fails to make available to a patient or client, upon request, copies of patient records in their possession, or under their control that have been prepared for and paid for by the patient or client. The patient records must be provided to the patient or client within 30 days of the request.  
[4/11/1989...7/1/1996; 16 NMAC 2.12.19, 4/1/1997; A, 8/31/1998; 16.2.12.20 NMAC - Rn & A, 16 NMAC 2.12.20, 8/13/2001; A, 2/15/2005]

**16.2.12.21 BREACH OF CONFIDENTIALITY:** Pursuant to the Act, Section 61-14A-17.A (5) NMSA 1978, a doctor of oriental medicine, temporary licensee, extern, educational program or applicant for approval of an educational program shall be guilty of unprofessional conduct who reveals personally identifiable facts, data or information obtained in a professional capacity, without the prior consent of the patient or client, except as authorized or required by law.  
[4/11/1989...7/1/1996; 16 NMAC 2.12.20, 4/1/1997; 16.2.12.21 NMAC - Rn & A, 16 NMAC 2.12.21, 8/13/2001]

**16.2.12.22 DELEGATION OF RESPONSIBILITIES TO UNQUALIFIED PERSONS:** Pursuant to the Act, Section 61-14A-17.A (3), NMSA 1978, a doctor of oriental medicine, a temporary licensee or an extern shall be guilty of incompetence who:

- A. delegates professional responsibilities to a person when the doctor of oriental medicine, temporary licensee or extern delegating such responsibilities knows or has reason to know that the person is not qualified by education, by experience or by licensure or certification to perform the responsibilities; or
- B. fails to exercise appropriate supervision over temporary licensees or students who are authorized to practice only under the supervision of the doctor of oriental medicine or temporary licensee.

[4/11/1989...7/1/1996; 16 NMAC 2.12.21, 4/1/1997; 16.2.12.22 NMAC - Rn & A, 16 NMAC 2.12.22, 8/13/2001]

**16.2.12.23 ABANDONMENT OF PATIENTS:** Pursuant to the Act, Section 61-14A-17.A (5) NMSA 1978, a doctor of oriental medicine, temporary licensee, extern, educational program or applicant for approval of an educational program shall be guilty of unprofessional conduct who abandons or neglects a patient or client under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care, or abandons professional employment in a group practice, hospital, clinic or other health care facility, without reasonable notice and under circumstances which seriously impair the delivery of professional care to patients or clients.  
[4/11/1989...7/1/1996; 16 NMAC 2.12.22, 4/1/1997; 16.2.12.23 NMAC - Rn & A, 16 NMAC 2.12.23, 8/13/2001]

**16.2.12.24 SOLICITATION:** Pursuant to the Act, Section 61-14A-17.A (14) NMSA 1978, a doctor of oriental medicine, temporary licensee, extern, educational program or applicant for approval of an educational program shall be guilty of attempting to attract patronage in an unethical manner who solicits patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A solicitation is any communication which directly or implicitly requests an immediate oral or written response from the recipient.  
[4/11/1989...7/1/1996; 16 NMAC 2.12.23, 4/1/1997; 16.2.12.24 NMAC - Rn & A, 16 NMAC 2.12.24, 8/13/2001]

**16.2.12.25 FEE SPLITTING:** Pursuant to the Act, Section 61-14A-17.A (14) NMSA 1978, a doctor of oriental medicine, temporary licensee, extern, educational program or applicant for approval of an educational program shall be guilty of attempting to attract patronage in an unethical manner who engages in fee splitting. “Fee splitting” means paying or offering to pay a business or professional person or receiving or offering to receive from a business or professional person a commission, rebate, or compensation for bringing or referring a patient or dividing or offering to divide fees received for service for bringing or referring a patient. A division of fees between or among practitioners in the same practice or fee arrangements to cover patients during temporary absences is not fee splitting and is not prohibited by this provision.  
[4/11/1989...7/1/1996; 16 NMAC 2.12.24, 4/1/1997, A, 5/15/1999; 16.2.12.25 NMAC - Rn & A, 16 NMAC 2.12.25, 8/13/2001]

**16.2.12.26 FINANCIAL EXPLOITATION:** Pursuant to the Act, Section 61-14A-17.A (5) NMSA 1978, a doctor of oriental medicine, temporary licensee, extern, educational program or applicant for approval of an educational program shall be guilty of unprofessional conduct who exercises undue influence on the patient or client in such manner as to exploit the patient or client for the financial gain of the doctor of oriental medicine, temporary licensee, extern, educational program or applicant for approval of an educational program or of a third party. [4/11/1989...7/1/1996; 16 NMAC 2.12.25, 4/1/1997, 4/1/1997; 16.2.12.26 NMAC - Rn & A, 16 NMAC 2.12.26, 8/13/2001]

**16.2.12.27 SEXUAL ABUSE, EXPLOITATION AND MISCONDUCT:** Pursuant to the Act, Section 61-14A-17.A (5) NMSA 1978, a doctor of oriental medicine, an applicant, a temporary licensee, an applicant for temporary licensure or an extern shall be guilty of unprofessional conduct who commits an act of sexual abuse, exploitation or misconduct, by exercising influence within a doctor/patient or teacher/student relationship for purposes of engaging a patient or student in sexual activity or who engages in sexual contact or the suggestion of sexual contact with a patient or student during the doctor/patient or teacher/student relationship within an educational program, unless a sexual relationship with the patient or student preceded the professional relationship as doctor/patient or teacher/student. If the licensee, temporary licensee or extern and the patient mutually desire a personal/sexual relationship, the licensee, temporary licensee or extern shall immediately terminate the professional relationship with a written and signed termination of care agreement, make an appropriate referral to another health care practitioner, and wait before engaging in such a relationship for a time when it is reasonably certain based on the factors enumerated below that the professional relationship has no influence on the personal/sexual relationship. The licensee, temporary licensee or extern who engages in such a personal/sexual relationship, following the cessation or termination of treatment, bears the burden of providing proof that there has been no exploitation, in light of all relevant factors, including (1) the amount of time that has passed since care was terminated, (2) the nature and duration of the care, (3) the circumstances of termination, (4) the patient's personal history, (5) the patient's mental status, (6) the likelihood of adverse impact on the patient and others, and (7) any statements or actions made by the licensee, temporary licensee or extern during the course of care suggesting or inviting the possibility of a post termination relationship with the patient. Each of the following acts constitutes sexual abuse, exploitation or misconduct:

- A. physical or verbal sexual contact or intercourse during the course of the professional relationship, whether in or out of the practitioner's place of business;
- B. failure to maintain appropriate professional boundaries even if the patient is perceived as seductive;
- C. failure to provide the patient with an opportunity to undress and dress in private;
- D. failure to provide the patient with the opportunity to wear underwear or a smock during treatment;
- E. failure to obtain informed verbal consent before undraping or treating the patient's breasts, buttocks or genitals;
- F. use of inappropriate parts of the practitioner's body to brace the patient;
- G. palpation beyond that which is necessary to accomplish a competent examination or treatment;
- H. sexual repartee, innuendo, jokes or flirtation;
- I. sexual comments about the patient's person or clothing;
- J. inquiry into the patient's sexual history or behavior beyond that which is necessary for a competent examination, diagnosis or treatment; the practitioner shall not be unnecessarily intrusive; the practitioner shall not verbalize any unprofessional comments concerning the patient's sexual history or behavior; and
- K. attempting to diagnose or treat a sexual issue beyond the practitioner's scope of training or practice.

[4/11/1989...7/1/1996; 16 NMAC 2.12.26, 4/1/1997, 4/1/1997; 8/31/1998; A, 2-17-00; 16.2.12.27 NMAC - Rn & A, 16 NMAC 2.12.27, 8/13/2001]

**16.2.12.28 CONVICTION OF CRIME:** Pursuant to the Act, Section 61-14A-17.A (3) NMSA 1978, a doctor of oriental medicine, applicant, temporary licensee, applicant for temporary licensure or extern shall be guilty of incompetence if convicted of any misdemeanor or felony relating to the practice of acupuncture and oriental medicine, [identified as a disqualifying criminal conviction in 16.2.3.10 NMAC](#). For the purpose of this Section, conviction includes any finding of guilt by a court or jury, any plea or judgment of conditional discharge, or any plea of guilty, or any plea of nolo contendere or no contest, or plea or disposition of conditional discharge, and including any such proceeding in which a sentence was imposed, suspended or deferred.

[4/11/1989...7/1/1996; 16 NMAC 2.12.27, 4/1/1997; 16.2.12.28 NMAC - Rn & A, 16 NMAC 2.12.28, 8/13/2001]

**16.2.12.29 PERMITTING INSERTION OR REMOVAL OF ACUPUNCTURE NEEDLES:** Pursuant to the Act, Section 61-14A-17.A (5) NMSA 1978, a doctor of oriental medicine, applicant, temporary licensee, applicant for temporary licensure or extern shall be guilty of unprofessional conduct who permits, directs or supervises the insertion or removal of acupuncture needles by an unlicensed agent or employee. This provision shall not apply to a patient carrying out the instructions of his or her doctor of oriental medicine, temporary licensee or extern when it is part of the patient's treatment providing that the instructions are simple and clear and there is no danger to the patient. This provision shall not apply to a student enrolled in an educational program practicing under the direct supervision of a teacher as part of the educational program in which he or she is enrolled.  
[4/1/1997; 16.2.12.29 NMAC - Rn & A, 16 NMAC 2.12.29, 8/13/2001]

**16.2.12.30 PERMITTING THE PRESCRIPTION OF SUBSTANCES AND PROCEDURES:** Pursuant to the Act, Section 61-14A-17.A (5) NMSA 1978, a doctor of oriental medicine, applicant, temporary licensee, applicant for temporary licensure or extern shall be guilty of unprofessional conduct who permits, directs or supervises the prescription of substances or procedures within the scope of practice of a doctor of oriental medicine by an unlicensed agent or employee. This provision shall not apply to a patient carrying out the instructions of his or her doctor of oriental medicine, temporary licensee, or extern when it is part of the patient's treatment providing that the instructions are simple and clear and there is no danger to the patient. This provision shall not apply to a student enrolled in an educational program practicing under the direct supervision of a teacher as part of the educational program in which he is enrolled.  
[4/1/1997, 16.2.12.30 NMAC - Rn & A, 16 NMAC 2.12.30, A, 8/13/2001; A, 11/28/2009]

**16.2.12.31 FAILURE TO OBTAIN INFORMED CONSENT:** Pursuant to Section 61-14A-17.A (5) NMSA 1978, a doctor of oriental medicine, temporary licensee, extern, educational program or applicant for approval of an educational program shall be guilty of unprofessional conduct who fails to obtain, from the patient, a written informed consent for diagnosis and treatment that gives the patient at least a description of the types of diagnostic and treatment services used and any associated potential risks and sensations. The written informed consent shall also contain an explanation that the following will be discussed orally with the patient: (1) an estimate of the number of times the patient may need to return for treatment; (2) the frequency of treatment; and (3) the possible outcome of the diagnostic procedure or treatment service. The written informed consent shall also contain a statement that the patient shall have the choice to accept or reject the proposed diagnostic procedure or treatment, or any part of it, before or during the diagnosis or treatment.  
[5/15/1997, A, 8/31/1998, A, 5/15/1999; 16.2.12.31 NMAC - Rn & A, 16 NMAC 2.12.31, 8/13/2001]

**16.2.12.32 INCOMPETENCE AND UNPROFESSIONAL CONDUCT:** The specifications of incompetence and unprofessional conduct defined in the act and 16.2.12 NMAC shall not be exclusive of the types of acts and omissions which may be found by the board to constitute incompetence or unprofessional conduct.  
[4/11/1989...7/1/1996; 16 NMAC 2.12.28, 4/1/1997; 16.2.12.32 NMAC - Rn, 16 NMAC 2.12.32, 8/13/2001; A, 2/15/2005; A, 11/28/2009]

**16.2.12.33 ACUPUNCTURE ON ANIMALS:** A person who is not licensed under the Veterinary Practice Act, including a licensed doctor of oriental medicine, is prohibited from practicing veterinary medicine, including acupuncture on an animal, as defined by the Veterinary Practice Act, except under direct supervision of a licensed veterinarian pursuant to Rule 16.25.9.15 NMAC, or superseding rule. A licensed doctor of oriental medicine is guilty of unprofessional conduct who: (1) practices acupuncture on an animal or renders related services on an animal in violation of the Veterinary Practice Act, or (2) advertises or solicits clients for the practice of acupuncture on an animal except as permitted by rule promulgated by the board of veterinary medicine, or (3) accepts a fee directly from a client for services rendered on an animal.  
[16.2.12.33 NMAC - N, 8/13/2001]

**16.2.12.34 DISCIPLINARY ACTION AND FINES:** A licensee, temporary licensee, applicant, applicant for temporary licensure, extern, extern supervisor or educational program is subject to disciplinary proceedings, including fines, in accordance with the uniform Licensing Act, NMSA 1978, Sections 61-1-1 through 61-1-35, as amended, for violations of the act or for violations of 16.2.12 NMAC (Part 12 of the Rules). Fines may be assessed for each violation. Fines may be assessed in addition to other disciplinary action taken by the board for repeated or serious violations or for providing false or misleading information to the board.

**A.** Violations of specific rules applicable to educational programs may result in denial, suspension or revocation of the educational program approval or in assessment of fines as described below:

- (1) failure to provide the board complete, accurate transcripts pursuant to Paragraphs (1) & (2) of Subsection C of 16.2.3.13 NMAC of Part 3 of the Rules) - \$1000.00;
- (2) failure to furnish the board, its investigators, or agents with information requested by the board or failure to allow visits or inspections of the institute or facility pursuant to 16.2.7.8 NMAC (Section 8 of Part 7 of the Rules or Subsection M of 16.2.7.9 NMAC (Subsection M of Section 9 of Part 7 of the Rules) - \$1000.00;
- (3) failure to provide the board with the names and educational qualifications of all teaching supervisors, resident teachers and visiting teachers as required by Subsection G of 16.2.7.9 NMAC (Subsection G of Section 9 of Part 7 of the Rules) - \$500.00;
- (4) failure to provide at least 900 hours of Supervised Clinical Practice and observation with at least 400 of those hours as actual treatment hours with the student as the primary student practitioner pursuant to Subsection C of 16.2.7.9 NMAC (Subsection C of Section 9 of of Part 7 of the Rules) - \$ 500.00;
- (5) failure to notify board of ownership or program changes pursuant to 16.2.7.13 NMAC (Section 13 of Part 7 of the Rules) - \$200.00;
- (6) failure to maintain and enforce appropriate guidelines and procedures for termination and transfer of clinic patients pursuant to 16.2.12.23 NMAC (Section 23 of Part 12 of the Rules) - \$ 500.00; and
- (7) failure to comply with any other provisions required of an educational program, a fine not to exceed one thousand dollars (\$1,000.00) for each violation.

**B.** A licensee, temporary licensee, applicant, applicant for temporary licensure, extern or an extern Supervisor is subject to disciplinary proceedings in accordance with the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 through 61-1-35, as amended, for violations of the act, Section 61-14A-17 NMSA 1978, or the Rules. The board has authority to take action that may result in denial of a license, failure to renew a license, suspension of a license, revocation of a license, restriction or limitation on the scope of practice, requirement to complete remedial education, monitoring of the practice by a supervisor approved by the board, censure or reprimand, compliance with conditions of probation or suspension for a specific period of time, corrective action as specified by the board, or payment of a fine not to exceed one thousand dollars (\$1,000.00) for each violation.

**C.** Violations of specific rules applicable to extern supervisors and externs as defined in 16.2.14 NMAC (Part 14 of the Rules) may result in suspension or revocation of the externship supervisor registration or the extern certification or in assessment of a fine not to exceed one thousand dollars (\$1000.00) for each violation. [16.2.12.34 NMAC - N, 8/13/2001]

**16.2.12.35 EXPANDED PRESCRIPTIVE AUTHORITY INCOMPETENCE:** Pursuant to the Act, Section 61-14A-17.A (3) NMSA 1978, a doctor of oriental medicine certified for the expanded prescriptive authority shall be guilty of incompetence if he, when diagnosing and treating a patient, does not possess and apply the knowledge and use the skill and care ordinarily used by similarly certified doctors of oriental medicine. [16.2.12.35 NMAC - N, 2/15/2005; A, 11/28/2009]

**16.2.12.36 INCOMPETENCE:** Pursuant to the Act, Section 61-14A-17.A (3) NMSA 1978, a doctor of oriental medicine or a doctor of oriental medicine certified in expanded practice who injudiciously prescribes, administers, or dispenses a drug as defined in the New Mexico Drug, Device and Cosmetic Act shall be guilty of incompetence. [16.2.12.36 NMAC - N, 2/15/2005; A, 11/28/2009]

#### **History of 16.2.12 NMAC:**

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

- AB 81-1, Regulations Governing Acupuncture Practitioners, filed 10/5/1981;
- AB 82-1, Regulations Governing Acupuncture Practitioners, filed 6/16/1982;
- AB 84-1, Regulations Governing Acupuncture Practitioners, Tutors and Institutes, filed 3/13/1984;
- BCD 87-1, Emergency Regulations Governing Acupuncture Practitioners, Tutors and Institutes, filed 10/30/1987;
- ACU 88-1 Regulations Governing Acupuncture Practitioners, Tutors and Institutes, filed 3/13/1989;
- ACU Rule 91-9, Regulations Governing Acupuncture Practitioners, Tutors and Institutes- Sanitation, filed 2/18/1991;
- Rule 9, Regulations Governing Acupuncture Practitioners, Tutors and Institutes- Sanitation, filed 1/26/1993;

ACU Rule 91-10, Regulations Governing Acupuncture Practitioners, Tutors and Institutes- Advertisement, filed 2/18/1991;  
Rule 10, Regulations Governing Acupuncture Practitioners, Tutors and Institutes- Titles, filed 1/27/1993;  
ACU Rule 91-14, Regulations Governing Acupuncture Practitioners, Tutors and Institutes- Grounds for Denial, Suspension or Revocation of License, filed 2/18/1991;  
Rule 14, Regulations Governing Acupuncture Practitioners, Tutors and Institutes- Grounds for Denial, Suspension or Revocation of License, filed 1/26/1993;  
ACU Rule 91-15, Regulations Governing Acupuncture Practitioners, Tutors and Institutes- Pertaining to Open Meetings, Public Records, and Confidentiality, filed 2/18/1991;  
Rule 15, Regulations Governing Acupuncture Practitioners, Tutors and Institutes- Pertaining to Open Meetings, Public Records, and Confidentiality, filed 8/28/1992;  
ACU Rule 91-16, Regulations Governing Acupuncture Practitioners, Tutors and Institutes- Guidelines for Sterilization or Reusable Acupuncture Needles, filed 5/11/1992;  
Rule 16, Regulations Governing Acupuncture Practitioners, Tutors and Institutes- Guidelines for Sterilization or Reusable Acupuncture Needles, filed 1/26/1993.

**History of Repealed Material:** Rule 9, Regulations Governing Acupuncture Practitioners, Tutors and Institutes- Sanitation (filed 1-26-93) and Rule 10, Regulations Governing Acupuncture Practitioners, Tutors and Institutes- Titles (filed 1-27-93) both repealed effective 06-20-2001.

**Other History:**

Rule 14, Regulations Governing Acupuncture Practitioners, Tutors and Institutes- Grounds for Denial, Suspension or Revocation of License (filed 1/26/1993) and Rule 16, Regulations Governing Acupuncture Practitioners, Tutors and Institutes- Guidelines for Sterilization or Reusable Acupuncture Needles (filed 1/26/1993) both renumbered, reformatted, amended and replaced by 16 NMAC 2.12, Grounds For Denial, Suspension Or Revocation Of License, effective 7/1/1996.

16 NMAC 2.12, Grounds For Denial, Suspension Or Revocation Of License (filed 6/14/1996) renumbered, reformatted and amended to 16.2.12 NMAC, Grounds For Denial, Suspension Or Revocation Of License, effective 08/13/2001.