

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING**  
**CHAPTER 4 CHIROPRACTIC PRACTITIONERS**  
**PART 8 DISCIPLINARY PROCEEDINGS**

**16.4.8.1 ISSUING AGENCY:** New Mexico Chiropractic Board, PO Box 25101, Santa Fe, New Mexico 87504.  
[16.4.8.1 NMAC - Rp, 16.4.8.1 NMAC xx/xx/2021]

**16.4.8.2 SCOPE:** The provisions of 16.4.8 NMAC 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 chiropractor licensed by the board.  
[16.4.8.2 NMAC - Rp, 16.4.8.2 NMAC xx/xx/2021]

**16.4.8.3 STATUTORY AUTHORITY:** 16.4.8 NMAC is promulgated pursuant to the Chiropractic Physician Practice Act, NMSA 1978, Section 61-4-10, and the Uniform Licensing Act, Section 60-1-1 through 60-1-36 NMSA 1978.  
[16.4.8.3 NMAC - Rp, 16.4.8.3 NMAC xx/xx/2021]

**16.4.8.4 DURATION:** Permanent.  
[16.4.8.4 NMAC - Rp, 16.4.8.4 NMAC xx/xx/2021]

**16.4.8.5 EFFECTIVE DATE:** August 10, 2019, unless a later date is cited at the end of a section.  
[16.4.8.5 NMAC - Rp, 16.4.8.5 NMAC xx/xx/2021]

**16.4.8.6 OBJECTIVE:** To establish the procedures for filing complaints against licensees and applicants, the disciplinary actions available to the board, the authority to issue investigative subpoenas and to further define actions by a licensee which are considered incompetent or unprofessional practice.  
[16.4.8.6 NMAC - Rp, 16.4.8.6 NMAC xx/xx/2021]

**16.4.8.7 DEFINITIONS:** [RESERVED]

**16.4.8.8 COMPLAINTS:** Disciplinary proceedings may be instituted by sworn complaint of any person, including members of the board and complaint/review committee. Any hearing held pursuant to the complaint shall conform to the provisions of the Uniform Licensing Act, the Chiropractic Physician Practice Act, and the Impaired Practitioners Act.  
[16.4.8.8 NMAC - Rp, 16.4.8.8 NMAC xx/xx/2021]

**16.4.8.9 ACTIONS:**

**A.** The board may penalize, deny, revoke, suspend, stipulate, or otherwise limit a license if the board determines the licensee is guilty of violating any of the provisions of the Chiropractic Physician Practice Act, the Uniform Licensing Act, the Impaired Healthcare Care Providers Act, these Rules, or discipline imposed by other governing bodies.

**B.** The board may reprimand, censure, or require licensees to fulfill additional continuing education hours within limited time constraints for violations of the act or rules.

**C.** The board may at its discretion hire investigators to investigate complaints made to the board regarding chiropractic physicians.

**D.** Licensees shall bear all costs of disciplinary proceedings unless exonerated.  
[16.4.8.9 NMAC - Rp, 16.4.8.9 NMAC xx/xx/2021]

**16.4.8.10 GUIDELINES:** The board shall use the following as guidelines for disciplinary action.

**A.** “**Gross incompetence**” or “**gross negligence**” means, but shall not be limited to, a significant departure from the prevailing standard of care in treating patients.

**B.** “**Unprofessional conduct**” means, but is not limited to because of enumeration:  
**(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 chiropractic profession;

- (2) representing to a patient that a manifestly incurable condition or sickness, disease or injury can be cured;
- (3) willfully or negligently divulging a professional confidence;
- (4) failure to release to a patient copies of that patient's records and x-rays;
- (5) failure to seek consultation whenever the welfare of the patient would be safeguarded or advanced by consultation with individuals having special skills, knowledge, and experience;
- (6) failure of a chiropractor to comply with and following advertising guidelines as set in

16.4.1.12 NMAC;

- (7) failure to use appropriate infection control techniques and sterilization procedures;
- (8) deliberate and willful failure to reveal, at the request of the board, the incompetent, dishonest, or corrupt practices of another chiropractor licensed or applying for licensure by the board;
- (9) accept rebates, or split fees or commissions from any source associated with the service rendered to a patient;
- (10) intentionally engaging in sexual contact with a patient other than his spouse during the doctor-patient relationship;
- (11) the use of a false, fraudulent or deceptive statement in any document connected with the practice of chiropractic;
- (12) fraud, deceit or misrepresentation in any renewal or reinstatement application;
- (13) violation of any order of the board, including any probation order;
- (14) failure to adequately supervise, as provided by board regulation, a chiropractic assistant or technician who renders care as a chiropractic assistant under 16.4.19 NMAC of these rules;
- (15) cheating on an examination for licensure;
- (16) is habitually intemperate or is addicted to the use of habit-forming drugs or is addicted to any vice to such a degree as to render him unfit to practice chiropractic;
- (17) is guilty of failing to comply with any of the provisions of the Chiropractic Physician Practice Act (Chapter 61, Article 4 NMSA 1978) or rules and regulations promulgated by the board and filed in accordance with the State Rules Act (Chapter 14, Article 4 NMSA 1978);
- (18) has been declared mentally incompetent by regularly constituted authorities or is manifestly incapacitated to practice chiropractic;
- (19) has incurred a prior suspension or revocation in another state where the suspension or revocation of a license to practice chiropractic was based upon acts by the licensee similar to acts described in this section and by board rules;
- (20) failure to report to the board within 90 days any adverse action taken after due process has been afforded to the licensee by:

- (a) another licensing jurisdiction;
  - (b) any health care entity, not involving disputes over fees;
  - (c) any governmental agency, not involving disputes overseas;
  - (d) any court for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section;
- (21) failure to furnish the board, its investigators or representatives with information requested by the board;
  - (22) abandonment of patients;
  - (23) providing a false, materially incomplete, factually unsupported opinion or opinions which are not congruent with current teachings and standards of care as taught in CCE accredited chiropractic colleges in a peer review, records review, independent medical examination, or chiropractic examination.

[16.4.8.10 NMAC - Rp, 16.4.8.10 NMAC xx/xx/2021]

**16.4.8.11 DISQUALIFYING CRIMINAL CONVICTIONS:** A “disqualifying criminal conviction” means a conviction for a crime that is job-related for the position in question and consistent with business necessity. Convictions for any of the following offense, or their equivalents in any other jurisdiction, are disqualifying criminal convictions that may disqualify an applicant from receiving or retaining a license or certificate by the board:

**A. Physical Harm to Others:**

- (1) Section 30-2-1 “Murder” NMSA 1978
- (2) Section 30-2-3 “Manslaughter” NMSA 1978

(3)	<u>Section 30-3-1 “Assault” NMSA 1978</u>
(4)	<u>Section 30-3-4 “Battery” NMSA 1978</u>
(5)	<u>Section 30-6-1 “Abandonment or abuse of a child” NMSA 1978</u>
(6)	<u>Section 30-4-1 “Kidnapping” NMSA 1978</u>
(7)	<u>Section 30-4-3 “False imprisonment” NMSA 1978</u>
(8)	<u>Section 30-9-19, “Sexual assault” NMSA 1978</u>
(9)	<u>Section 30-47-4 “Abuse of a care facility resident” NMSA 1978</u>
(10)	<u>Section 30-47-5 “Neglect of a care facility resident” NMSA 1978</u>
<b>B.</b>	<b><u>Property Damage</u></b>
(1)	<u>Section 30-15-1 “Criminal damage to property” NMSA 1978</u>
(2)	<u>Section 30-7-5 “Dangerous use of explosives” NMSA 1978</u>
(3)	<u>Section 30-15-1.1 “Unauthorized graffiti on personal or real property” NMSA 1978</u>
(4)	<u>Section 30-17-5 “Arson and negligent arson” NMSA 1978</u>
<b>C.</b>	<b><u>Fraud</u></b>
(1)	<u>Section 30-16-6 “Fraud” NMSA 1978</u>
(2)	<u>Section 7-1-73 “Tax fraud” NMSA 1978</u>
(3)	<u>Sections 59A-16C-1 to -17, violations of the Insurance fraud act NMSA 1978</u>
(4)	<u>Section 30-28-2 “Conspiracy” NMSA 1978</u>
(5)	<u>Section 30-44-4 “Falsification of documents” under the Medicaid Fraud Act NMSA 1978</u>
(6)	<u>Section 30-44-5 “Failure to retain records in connection with the Medicaid Fraud Act” NMSA 1978</u>
(7)	<u>Section 30-44-6 “Obstruction of Investigation in connection with the Medicaid Fraud Act” NMSA 1978</u>
(8)	<u>Section 30-44-7 “Medicaid fraud” NMSA 1978</u>
(9)	<u>Section 30-51-4 “Money laundering” NMSA 1978</u>
<b>D.</b>	<b><u>Theft</u></b>
(1)	<u>Section 30-14-8 “Breaking and entering” NMSA 1978</u>
(2)	<u>Section 30-16-1 “Larceny” NMSA 1978</u>
(3)	<u>Section 30-16-2 “Robbery” NMSA 1978</u>
(4)	<u>Section 30-16-3 “Burglary” NMSA 1978</u>
(5)	<u>Section 30-16-20 “Shoplifting” NMSA 1978</u>
(6)	<u>Section 30-16-24.1 “Theft of identity” NMSA 1978</u>
(7)	<u>Section 30-16-26 “Theft of a credit card” NMSA 1978</u>
(8)	<u>Section 30-16-11 “Receiving stolen property” NMSA 1978</u>
(9)	<u>Section 30-47-6 “Exploitation of a care facility resident’s property” NMSA 1978</u>
<b>E.</b>	<b><u>Financial Crimes</u></b>
(1)	<u>Section 30-16-8 “Embezzlement” NMSA 1978</u>
(2)	<u>Section 30-16-9 “Extortion” NMSA 1978</u>
(3)	<u>Section 30-16-10 “Forgery” NMSA 1978</u>
(4)	<u>Section 30-41-1 “Soliciting and receiving illegal kickbacks” NMSA 1978</u>
(5)	<u>Section 30-42-4 “Racketeering” NMSA 1978</u>
<b>F.</b>	<b><u>Drug Offenses</u></b>
(1)	<u>Section 30-31-20 “Trafficking of controlled substances” NMSA 1978</u>
(10)	<u>Section 30-31-21 “Distribution to a minor” NMSA 1978</u>
(11)	<u>Section 30-31-22 “Intentionally distributing or possessing with intent to distribute a controlled substance” NMSA 1978</u>
(12)	<u>Section 30-31-23 “Possession of controlled substances” NMSA 1978</u>
(13)	<u>Section 30-31-24 “Violations of the administrative provisions of the Controlled Substances Act” NMSA 1978</u>
(14)	<u>Section 30-31-25 “Engaging in other acts prohibited by the Controlled Substances Act” NMSA 1978</u>
(15)	<u>Section 30-31-25.1 “Delivering drug paraphernalia to a person under eighteen years of age and who is at least three years the person’s junior” NMSA 1978</u>
(16)	<u>Section 30-31A-4 “Manufacturing, distributing or possessing with intent to distribute an imitation controlled substance” NMSA 1978</u>

(17) Section 30-31A-5 “Intentionally selling an imitation controlled substance to a person under the age of eighteen years” NMSA 1978

(18) Section 30-31A-6 “Intentionally possessing an imitation controlled substance with the intent to distribute” NMSA 1978

(19) Section 30-31B-12 “Certain violations of the Drug Precursor Act” NMSA 1978

(20) Section 30-6-3 “Contributing to the delinquency of a minor” NMSA 1978

**G. Sex Crimes**

(1) Section 30-37A-1 “Unauthorized distribution of sensitive images” NMSA 1978

(2) Section 30-37-3.2 “Child solicitation by electronic communication device” NMSA 1978

(3) Section 30-37-3.3 “Criminal sexual communication with a child” NMSA 1978

(4) Section, 30-52-1 “Human trafficking” NMSA 1978

(5) Section 30-9-11 “Criminal sexual penetration” NMSA 1978

(6) Section 30-9-12 “Criminal sexual contact” NMSA 1978

(7) Section 30-9-13 “Criminal sexual contact of a minor” NMSA 1978

(8) Section 30-9-14.3 “Aggravated indecent exposure” NMSA 1978

(9) Section 30-6A-3 “Sexual exploitation of children” NMSA 1978

(10) Section 30-6A-4 “Sexual exploitation of children by prostitution” NMSA 1978

(11) Section 29-11A-4(P) “Failure to register as required by sex offender registration and notification act” NMSA 1978

**H. Abuse of animals**

(1) Section 30-18-1 “Cruelty to animals or extreme cruelty to animals” NMSA 1978

(2) Section 30-18-3 “Unlawful branding of animals” NMSA 1978

(3) Section 30-18-6 “Transporting stolen livestock” NMSA 1978

(4) Section 30-18-9 “Dog fighting or cock fighting” NMSA 1978

(5) Section 30-18-12 “Injury to livestock” NMSA 1978

**I. Miscellaneous**

(1) Section 30-3A-3 “Stalking” NMSA 1978

(2) Section 30-20-12 “Use of telephone to terrify, intimidate, threaten, harass, annoy, or offend another” NMSA 1978

(3) Section 66-8-102 “Driving under the influence of intoxicating liquor or drugs” NMSA 1978

(4) Section 61-6-20 “Practicing medicine without a license” NMSA 1978

(5) Section 61-6-25 “Making a false statement under oath or submitting a false affidavit, in connection with the Medical Practice Act” NMSA 1978

(6) Section 26-1-26 “Violation of the New Mexico Drug, Device and Cosmetic Act” NMSA 1978

(7) Section 12-10-20 “Failure to comply with proclamation of the governor” NMSA 1978

**J.** The board shall not consider the fact of a criminal conviction as part of an application for licensure unless the conviction in question is one of the disqualifying criminal convictions listed under this section.

**K.** The board shall not deny, suspend or revoke a license on the sole basis of a criminal conviction unless the conviction in question is one of the disqualifying criminal convictions listed under this section.

**L.** Nothing in this rule prevents the board from denying an application or disciplining a licensee on the basis of an individual’s conduct to the extent that such conduct violated the Chiropractor Physician Practice Act, NMSA 1978, Sections 61-4-1 to -17 and/or the Uniform Licensing Act, NMSA 1978, Section 61-1-1 to-36, regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the disqualifying criminal convictions listed in under this section.

**M.** In connection with an application for licensure, the board shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:

(1) an arrest not followed by a valid conviction;

(2) a conviction that has been sealed, dismissed, expunged or pardoned;

(3) a juvenile adjudication; or

(4) a conviction for any crime other than the disqualifying criminal convictions listed in

16.4.8.11 NMAC.

**[16.4.8.11] 16.4.8.12**

board is authorized to:

**COMPLAINT/REVIEW COMMITTEE:** The complaint/review committee of the

- A.** carry out the instructions of the board in the investigation and processing of complaints against licensees.
- B.** disciplinary actions taken by the board shall be reported as required to the following entities:
- (1) national practitioner databank-healthcare integrity and protection databank “NPDB-HIPD”;
  - (2) federation of chiropractic licensing boards “FCLB”;
  - (3) or their successors.

[16.4.8.11 NMAC - Rp, 16.4.8.11 NMAC xx/xx/2021]

**History of 16.4.8 NMAC:** 16.4.8 NMAC, Disciplinary Proceedings filed 1/31/2006, Repealed effective xx/xx/2021.

**Other History:** 16.4.8 NMAC, Disciplinary Proceedings filed 1/31/2006 was replaced by 16.4.8 NMAC, Disciplinary Proceedings filed 1/31/2006 effective xx/xx/2021.