

BEFORE THE REGULATION AND LICENSING DEPARTMENT ON BEHALF OF THE  
ADVISORY BOARD OF RESPIRATORY CARE PRACTITIONERS  
FOR THE STATE OF NEW MEXICO

IN RE:

RULEMAKING PROCEEDING FOR THE  
AMENDMENTS TO 16.23.2 NMAC- Fees  
AMENDMENTS TO 16.23.12 NMAC- Continuing Education

**CONCISE EXPLANATORY STATEMENT**

The New Mexico Advisory Board of Respiratory Care Practitioners (the “Board”) and the Regulation and Licensing Department (Department) hereby adopts rules that amends the Board’s administrative code, including Part 2 Fees, Part 2 Continuing Education, The published rules are codified in 16.23.2 NMAC and 16.23.12 NMAC.

(1) Statutory Authority for Rule Promulgation:

The proposed rule changes are authorized by the Respiratory Care Act, §§61-12B-1 through -17, NMSA 1978. which provides explicit authority for the board to promulgate rules to protect public health and safety and carry out the provisions of the Act. The rulemaking and public rule hearing is governed by the State Rules Act, Sections 14-4-1 through 14-4-11 NMSA 1978, and the Default Procedural Rule for Rulemaking promulgated by the New Mexico Department of Justice, Parts 1.24.25.1 through 1.24.25.16 NMAC.

(2) Effective Date of Rule:

Date of publication in the New Mexico Register.

(3) Date of Adoption of Rule:

December 22, 2025

(4) Date of Meeting Approving Rule:

December 12, 2025

(5) Reasons for Adopting Rule:

Rule 16.23.2 NMAC, Fees – Changes to this rule will allow for a thirty-five-dollar (\$35) fee for returned checks and e-checks, and a ten dollar (\$10) administrative fee for electronic processing for initial applications and for renewals per year to fund the ongoing maintenance and licensing of the NM-Plus system.

Rule 16.23.12 NMAC, Continuing Education – Changes to this rule will provide clarity on the audit of continuing education requirements and allow the board to impose disciplinary action on a licensee who is not compliant with the continuing education requirement. applicants to have Level Two Security Guard registration and certification. Add the requirement for a biometric criminal history background check to the qualifications for a security guard instructor registration to align with the statutory requirements.

(6) Reasons for Changes from Published Rule:

No changes were made from the published rule for the amendment of 16.23.2 NMAC or the amendment of 16.23.12 NMAC.

(7) Reasons for Not Accepting Substantive Arguments from Public Comment:

There were no public comments related to the amendment of 16.23.2 NMAC or the amendment of 16.23.12 NMAC.

The proposed rules, as authorized by the Board during its regular meeting held December 12, 2025, and approved by the Department are hereby adopted as of the date of this Concise Explanatory Statement.

**IT IS SO ORDERED.**

ON BEHALF OF THE NEW MEXICO PRIVATE  
INVESTIGATIONS ADVISORY BOARD

December 22, 2025  
DATE

Clay Bailey  
Clay Bailey, Superintendent