

**The New Mexico Board of Psychologist Examiners (BoPE)
Proposed Rule Revisions**

Hearing date: May 18, 2018, 8:30 am

Hearing Location: NM Regulation and Licensing Dept, 2550 Cerrillos Rd., Santa Fe (Rio Grande Room)

Suggested study plan:

1. Read over the proposed changes and explanations below.
2. Click on the link contained in the Notice of Public Rule Hearing (attached) for anything you want to look at more carefully. Or click [HERE](#) to go to the board's website.
3. Write to the BoPE a formal public comment in favor or opposed to any rule that interests you.
4. Attend the BoPE meeting in Santa Fe on May 18.

Written comments will be reviewed in advance of the meeting for consideration by the BoPE. There will be a "Rule Hearing" to take oral public comment. The BoPE will meet after the Rule Hearing to agree to, reject, or amend (within limits) the proposed rules.

Part 1: General Provisions

16.22.1.7 NMAC, Subsection A, Paragraphs (1) through (85) clarifies or adds some definitions and removes some that are either defined in other sections in the rules or in statute. Subsection B, Paragraphs (1) through (32) are deleted because the Board previously moved all definitions except "log," "supervision" and "supervisor" from Subsection B to Subsection A. It is not necessary to continue to define these words in that they are common words used in their ordinary sense and are well specified each time they appear in the rules.

16.22.1.8 NMAC, Subsections A through S are deleted because it is not necessary to continue to define these acronyms, they are well specified each time they appear in the rules.

Part 2: Code of Conduct

16.22.2.8 NMAC, the words "cultural competency" are added to Subsection C to clarify what the section is referring to. Subsection F is replaced with new language which also replaces the identical language in 16.22.2.15 NMAC. Previous versions did not deal with psychological autopsies and other post-hoc evaluative techniques that are useful and ethical. Subsection H has been moved to Patient Welfare in 16.22.2.10 NMAC where it more logically fits.

16.22.2.9 NMAC, Subsection A has been moved to Patient Welfare in 16.22.2.10 NMAC where it more logically fits. This also leaves the well-considered and well-written section on Prohibited Dual Relationships to stand on its own.

16.22.2.10 NMAC, Subsection C, Paragraph (3) eliminates language that provides an example, which is unnecessary. Subsections D and E are replaced with language deleted in 16.22.2.8 NMAC, Subsection H and 16.22.2.9 NMAC, Subsection A, placing this language in the appropriate section of the rules. The language regarding stereotyping is deleted because it is aspirational and should not be part of the Code of Conduct, and the language regarding sexual or other dual relationship is deleted because there is a big section on this topic in 16.22.9 NMAC and is therefore redundant.

16.22.2.14 NMAC, Subsection D, Paragraph (5) is deleted because it is too intrusive and not reflective of the burdens of dealing with third party payers. As long as the psychologist complies

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with 16.22.2.14 NMAC, Subsection A, the client is aware that such charges may be added to the regular fees, making this paragraph unnecessary.

16.22.2.15 NMAC, Subsection F is deleted because it was repeated and the issue is now fully addressed in 16.22.2.8 NMAC, Subsection F.

16.22.2.16 NMAC, Subsection B removes language that forces psychologists into battles they will inevitably lose as a matter of legal practice. The language is replaced with language that provides some measures for trying to safeguard test materials without going to battle.

Part 3: Non-Licensed Applicant with an Independent Mental Health License

The part name is changed to “Non-Licensed Doctoral Students, Psychology Interns and Post-Doctoral Trainees; Non-Licensed Employees and Agents” because this part does not apply to applicants. Rather, it addresses limitations for non-licensed persons.

16.22.2.3 NMAC, expands on the list of non-licensed persons the scope applies to.

16.22.3.6 NMAC, Subsection A: The word “applicant” is removed because the sentence has to do with students, who will not have applied yet. Language about evaluators is removed because it is no longer relevant due to changes in the temporary licensure of evaluators (New 16.22.5.13 NMAC, Applicants Seeking a Temporary License.)

16.22.3.9 NMAC, Subsection D adds “Doctoral” to describe the level of student this section applies to; it deletes “applicant” because the section only applies to students, not applicants; and replaces “internship” with “practicum” because there could be confusion with the term “internship” which psychologists use primarily to refer to the formal internship required for graduation. New Subsection E, Paragraphs 1 through 7 adds language that allows for the registration of individuals in the latter stages of their training, during their doctoral internship and while acquiring post-doctoral supervised experience. This status, when registered by the board, may allow the services of these individuals to be reimbursed under some insurance programs. This would be advantageous to the individual and the training programs, and also is likely to aid New Mexico in attracting and retaining qualified psychologists.

16.22.3.10 NMAC, is deleted. This section is redundant. There is much simpler language in 16.22.4.13 NMAC. Temporary License accomplishes the purpose without the complications that exist in this section.

Part 4: Psychologists: Education Requirements

16.22.4.2 NMAC, adds language making it explicit and clear that there is one standard for education with two exceptions; reciprocity and foreign trained.

16.22.4.8 NMAC, Subsection A replaces the language Page: 2 to match the statute and the new definition added for “nationally recognized” designation and accrediting systems in 16.22.1.7 NMAC, Subsection A, Paragraph 24 (new paragraph). Subsection B removes “substantial

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compliance” language because it has introduced considerable vagueness and unnecessary interpretation. Page: 2 The emphasis of this section should be on who is responsible to provide the evidence, namely, the applicant.

Part 5: Psychologists: Application Requirements; Procedures

The part name is changed to “Psychologists: Application Procedures,” removing “Requirements” because other sections set requirements for education, testing and supervised experience. This section describes **only how one applies** and shows those credentials and experiences to the satisfaction of the board. Historically, this section has been the source of considerable confusion and threatened litigation. It has been greatly simplified and clarified by the drafters of the proposed changes.

16.22.5.6 NMAC, removes “requirements” language and replaces with “procedures for applying” language for the same reason as the change to the part name.

16.22.5.8 NMAC, Subsection B replaces the language to make it clearer for the reader to know the specific sections of the rules listing the requirements for education, supervised experience and examination. Some of the sections currently cited are not relevant. The reader who is interested in the exceptions for reciprocity and foreign trained individuals is directed to the relevant sections.

16.22.5.9 NMAC, Section title is changed from “Applications not Previously Licensed in Any Jurisdiction for Licensure” to “Application for Licensure” for simplification. Previously there were separate subsections for new licensees, and various other categories, although the requirements and procedures were in most cases identical. This section now applies to all applicants, and the few exceptions are laid out in relevant sections. By listing the procedures in one place, potential conflicting language between sections can be avoided.

Subsection A adds language that application documents shall be submitted to the satisfaction of the board or any agency designated by the board. This language allows for the processing of applications through the ASPPB system. Paragraphs 2 through 5 amend the language to clarify what documentation shall accompany an application to satisfy the Board’s requirements. Paragraph 6, Subparagraphs (a) through (c) are added to define what it needed to satisfy the requirement of successful completion of the EPPP. Paragraphs 7 and 8 are added to define what is needed to satisfy the requirements for licensure by certificate of professional qualifications (CPQ), national register health service provider in psychology credential, or reciprocity.

Subsection B provides clarification for applicants who need to take the EPPP. Subsection D is removed because the examination requirement is covered in 16.22.7.8 NMAC, which allows repeated examination without a limit and this subparagraph contradicts it. Subsections G and H delete language concerning an 18 month provisional license for individuals who have completed

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all requirements except their supervised experience because supervision toward licensure is covered in detail in 16.22.6. The Professional Psychologist Act allows but does not require the Board to issue provisional licenses to individuals who are qualified except for completing all supervised experience. This revision of the rules accomplishes the same end by allowing proposed licensees to *register* with the Board while completing requirements for licensure in 16.22.6.8.E (2).

16.22.5.10 NMAC, allows some latitude in educational requirements for licensees in other states and provinces who have been licensed and in good standing for a considerable period of time. This revision amends the reciprocity language to include those who are licensed in an American or Canadian jurisdiction and no longer applies to licensees from another country. Foreign trained applicants may still apply and their educational requirements are addressed in 16.22.5.15 NMAC by a method described there. All other requirements are the same for individuals from countries other than America and Canada, including the licensing examination, which is made explicit in this revision. These changes are in keeping with the overall effort in the present revisions to standardize the educational and examination requirements for almost all applicants and to make these requirements explicit and clear.

Subsection B is greatly abbreviated, and Subsection C is deleted so as not to repeat and duplicate the general procedures for application in 16.22.5.9 above.

16.22.5.11 NMAC covers a form of facilitated licensure of individuals licensed in other American and Canadian jurisdictions who hold a Certificate of Professional Qualification (CPQ) or are credentialed by the national register (HSSP). Subsection A is greatly abbreviated, and Subsections C and D are deleted so as not to repeat and duplicate the general procedures for application in 16.22.5.9 above.

16.22.5.12 NMAC is repealed in its entirety as being unnecessary after the other changes in this part. It had the unintended effect of appearing to be another route to licensure outside statutory requirements which are fully addressed in other sections. This section was the source of problematic interpretations and threats of litigation.

16.22.5.13 NMAC covers temporary licensure, which were covered in two other places in the Board's rules (federal disasters in 16.22.5.14 NMAC; court-ordered evaluators from other jurisdictions in 16.22.3.10 NMAC). These purposes are combined in this section. Provision is made for expedited temporary licensure in the case of federally declared natural disaster, new Subsection A, Paragraph (6)

16.22.5.14 NMAC is deleted in its entirety and is superseded by 16.22.5.13 NMAC for reasons described above regarding 16.22.5.13.

16.22.5.15 NMAC covers the licensure of applicants who received their doctoral training in psychology outside the United States and Canada, and who therefore cannot meet the normal educational requirement of accreditation or registration by American accrediting or registering bodies. Subsection A Paragraph (1) was deleted because it states nothing that is not include in the general licensing requirements of this part. New Paragraph (1) addresses the equivalency of doctoral programs. New Paragraph (2) is added because the Board is required to designate an

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agency which specializes in assessing foreign graduates, but these agencies have their own procedures and requirements for documentation. So there is no need to list them here because listing creates the possibility for asking more or less than the agency requires.

Part 6: Psychologists: Predoctoral and Postdoctoral Supervised Experience

The part name is changed to “Psychologists: Practicum, Doctoral Internship and Postdoctoral Supervised Experience,” removing “Predoctoral” and replacing with “Practicum, Doctoral Internship...” Changing this brings the language up do date with current APA nomenclature.

16.22.6.7 NMAC, deleting language and keeping the section reserved. All definitions are being moved to 16.22.1 NMAC.

16.22.6.8 NMAC, all references to predoctoral practicum is changed to practicum to bring the language up do date with current APA nomenclature. Subsection B adds Paragraph 5, Subparagraphs (a) through (f) to provide requirements for telesupervision or telephonic supervision. Subsection 4, Paragraph 8 deletes the last sentence because it is confusing and contradicts the language in 16.22.6.7 (c) NMAC. Subsections C, D and E makes minor changes to language regarding pre-doctoral internship or practicum and APA to be consistent throughout the Rules. Paragraph (2) of Subsection E, adds a requirement that individuals obtaining supervised postdoctoral training toward licensure in New Mexico must have their supervision plan approved by the Board and are then registered as postdoctoral trainees by the Board. This subsection conforms to registration requirements under the new Subsection E of 16.22.3.9. Registered doctoral interns and postdoctoral trainees may be recognized as providers for billing purposes under health insurance plans, an advantage to both the trainee and the hiring organization and thus to attracting and retaining psychologists.

16.22.6.9 NMAC, Subsection B, Paragraph 1 amends the language to include in-person supervision and telesupervision or telephonic supervision. Paragraph 2 deletes the last three sentences because the requirements are addressed in 16.22.6.8 B (5) NMAC.

16.22.6.10 NMAC, Subsection A adds a new paragraph between 6 and 7 to include telesupervision or telephonic supervision.

Part 7: Examination Requirements

16.22.7.8 NMAC, Subsection A, Paragraph 1 adds language that spells out the acronyms.

Part 8: License Expiration and Renewal

16.22.8.8 NMAC, Subsection A, Paragraph 1 deletes the specific amount for renewal fee and adds language referring to 16.22.13.8 C (2) NMAC for the biennial renewal fee. If the fee amount changes, it only needs to be changed in the fees section and not throughout the Rules.

16.22.8.10 NMAC, deletes that language that a post card notice will be mailed, but clarifies notification will be given. This change does not restrict the form of delivery of such notification.

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16.22.8.11 NMAC, deletes “mailed” and changes it to “delivered” so this does not restrict the form of delivery of such notification.

Part 12: Psychologist Associates: Education Requirements and Conditions of Practice

16.22.12.8 NMAC, Subsection A, Paragraph 1 adds language that the supervising psychologist must be licensed in New Mexico. Psychologist associates practice under the license of a doctoral level person. It has never been specified that this person should be under the rules and licensing authority of a New Mexico licensee and thus the Board does not have jurisdiction over that person.

Part 13: Fees

Some fees are being reduced because current fees are in excess of the amounts needed to fund the Board and its actions. The Psychology Fund has accumulated large surplus funds in past years. The Board has been advised that maintaining large surpluses is not a good business practice. All changes in this section make a modest decrease in fees.

16.22.13.8 NMAC, Subsection B, Paragraph 1 reduces the initial application fee from \$300.00 to \$125.00. Decreasing the fee may be attractive to new licensees choosing New Mexico. Subsection C, Paragraph 1 reduces the one-time annual, first year renewal fee from \$300.00 for \$250.00 for psychologists and psychologist associates; Paragraph 2 reduces the biennial renewal active status fee from \$600.00 to \$500.0 for psychologists and psychologist associates; Paragraph 3 reduces the biennial renewal active status fee from \$150.00 to \$125.00 for conditional prescribing and prescribing psychologists; and Paragraph 4 reduces the annual renewal inactive status from \$150.00 to \$50.00. The fees become a nominal administrative fee since there is no involvement of the Board with these persons nor vice versa (e.g. no CE reporting, administrative action, etc.)

Part 14: Licensure for Military Service Members, Spouses and Veterans

16.22.14.7 NMAC, Subsections A and B deletes language and keeps the section reserved. All definitions are being moved to 16.22.1 NMAC.

16.22.14.8 NMAC, Subsection B, Paragraph 2 clarifies the licensure requirements. Paragraph 3 is added to include language that the Board will maintain a list of jurisdictions whose education, supervision and examination meet or exceed New Mexico’s requirements. The purpose of this list is to allow an immediate determination by staff that the person will qualify for licensure on first renewal thus carrying out the intent of the underlying statute to expedite licensure for military persons while avoiding licensing someone who will turn out not to be qualified.

16.22.14.9 NMAC, is deleted because fees are designated in 16.22.13 NMAC.

16.22.14.10 NMAC, Subsection B, Paragraph 4 makes minor changes to language regarding pre-doctoral internship to be consistent throughout the Rules.

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Part 30: Prescription Monitoring Program Requirements

This is a new part that is added to comply with the Health Care Provider Act and the Pain Relief Act. These rules require any conditional prescribing or prescribing psychologist who holds a federal drug enforcement administration registration and a New Mexico controlled substance registration to become a participant in the state's prescription monitoring program. The intent of the statute is to address, specifically, the opioid epidemic and has been expanded to include other controlled substances. Prescribing psychologists have a limited formulary that does not include opioids, but does include other drugs such as benzodiazepines that should be triggers for obtaining a prescription monitoring program (PMP) report.