

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 13 NURSING HOME ADMINISTRATORS
PART 1 GENERAL PROVISIONS

16.13.1.1 ISSUING AGENCY: New Mexico Nursing Home Administrators Board 725 St. Michael's Drive Santa Fe, New Mexico 87504 (505) 827-7170.
[10-31-95; 16.13.1.1 NMAC – Rn, 16 NMAC 13.1.1, 1-25-2001]

16.13.1.2 SCOPE: The provisions in Part 1 apply to all parts of Chapter 13, and provide relevant information to anyone affected or interested in Chapter 13 of Title 16.
[10-31-95; 16.13.1.2 NMAC – Rn, 16 NMAC 13.1.2, 1-25-2001]

16.13.1.3 STATUTORY AUTHORITY: Chapter 13 of Title 16 is promulgated pursuant to the Nursing Home Administrators Act, NMSA 1978 Sections 61-13-1 through 61-13-17 (1993 Repl. Pam.). Section 9 of Part 1 is authorized by NMSA 1978 Section 61-13-6 (1993 Repl. Pam.). Section 10 of Part 1 is authorized by NMSA 1978 Section 14-2-1 through 14-2-16 (1993 Repl. Pam.). Section 11 of Part 1 is authorized by NMSA 1978 Section 10-15-1.C (1993 Repl. Pam.).
[2-24-88; 2-13-94; 10-31-95; 16.13.1.3 NMAC – Rn, 16 NMAC 13.1.3, 1-25-2001]

16.13.1.4 DURATION: Permanent.
[10-31-95; 16.13.1.4 NMAC – Rn, 16 NMAC 13.1.4, 1-25-2001]

16.13.1.5 EFFECTIVE DATE: October 31, 1995.
[2-24-88...10-31-95; 16.13.1.5 NMAC – Rn, 16 NMAC 13.1.5, 1-25-2001]

16.13.1.6 OBJECTIVE: The objective of Part 1 of Chapter 13 is to set forth the provisions which apply to all of Chapter 13, and to all persons and entities affected by Chapter 13 of Title 16.
[10-31-95; 16.13.1.6 NMAC – Rn, 16 NMAC 13.1.6, 1-25-2001]

16.13.1.7 DEFINITIONS:

- A.** "AAHSA" means the American Association of Homes and Services for the Aging.
- B.** "ACHCA" means the American College of Health Care Administrators.
- C.** "ACHCE" means the American College of Health Care Executives.
- D.** "AUPHA" means the Association of University Programs in Health Care Administration.
- E.** [RESERVED]
- F.** "Administrator" means the chief executive officer.
- G.** "Applicant" means a person who has applied for a license.
- H.** "Approval" means the review and acceptance of a specific activity.
- I.** "Approval Body" means the agency, institution, or organization with the authorization to award continuing education credit.
- J.** "Audit" means an examination and verification of continuing education documents.
- K.** [RESERVED]
- L.** "Board" means the New Mexico Nursing Home Administrators Board.
- M.** "CE" means continuing education.
- N.** [RESERVED]
- O.** "Continuing Education Unit (CEU)" means ten contact hours (ten 60-minute clock hours) of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction.
- P.** "Contact Hours" means a unit of measurement to describe an approved, organized learning experience. One contact hour equals one - 60 minute clock hour.
- Q.** "Continuing Education" means a learning experience which enhances professional development.
- R.** [RESERVED]

- S.** "Expired License" means a license which has not been renewed or placed on Inactive Status on or before the expiration deadline.
- T.** "Hospital Administrator" means the chief executive officer of an acute care facility.
- U.** "Inactive Status" means a license which is in good standing but not current.
- V.** "Initial License" means the process of achieving the legal privilege to practice within a professional category upon the completion of educational and other requirements and receiving a passing score on the national licensing examination.
- W.** "Institution of Higher Learning" means a college or university.
- X.** [RESERVED]
- Y.** "Lapsed License" means an expired or inactive status license which has not been reactivated within the time limitations set forth in these rules.
- Z.** "License" means a document identifying the legal privilege and authorization to practice within a professional category.
- AA.** "Manager" means the individual who is responsible for the planning, organizing, directing, and controlling of the operations within a department or unit of a nursing home.
- BB.** "Must" means required.
- CC.** "NAB" means the National Association of Boards of Examiners for Nursing Home Administrators.
- DD.** "NCERS" means the National Continuing Education Review Service.
- EE.** "NHA" means nursing home administrator.
- FF.** "NMAC" means the New Mexico Administrative Code.
- GG.** "New Mexico Administrative Code" means the organizing structure for rules filed by New Mexico State agencies. The NMAC is also the body of filed rules and the published versions thereof. The NMAC is structured by Title, Chapter, and Part.
- HH.** "NMHCA" means the New Mexico Health Care Association.
- II.** "NMHSA" means the New Mexico Hospitals and Health Systems Association.
- JJ.** "NMSA" means New Mexico Statutes Annotated.
- KK.** "National Licensing Examination" means examination for licensure as provided by the National Association of Boards of Examiners for Nursing Home Administrators (NAB).
- LL.** "Nursing Home Administrator" means any individual responsible for planning, organizing, directing, and controlling the operation of a nursing home.
- MM.** [RESERVED]
- NN.** "PES" means the Professional Examination Service.
- OO.** "Reactivation" means the process of making current a license which has been expired as a result of failure to comply with the necessary renewal requirements. This process does not usually require Board action at any juncture.
- PP.** "Reciprocity" means the process of applying for licensure by providing proof of successful passage of the national licensing exam prior to licensure in another state, and proof of current license in good standing in another state.
- QQ.** "Reinstatement" means the process whereby a license, which has been subject to revocation or suspension, is returned to its former status. The reinstatement process always requires Board action.
- RR.** "Relicensure" means the process of renewal, reactivation, or reinstatement of a New Mexico nursing home administrator's license.
- SS.** "Shall" means mandatory; a requirement.
- TT.** "Should" means a suggestion or recommendation; not a requirement.
- UU.** [RESERVED]
- VV.** "ULA" means the Uniform Licensing Act of New Mexico.
- WW.** "Uniform Licensing Act" means New Mexico statute NMSA 1978 Section 61-1-1 to 61-1-33 (1993 Repl. Pamp.) which provides for hearing procedures to be utilized in disciplinary proceedings.
- XX.** "Verification of Continuing Education" means an official certificate issued at a continuing education activity which provides proof of attendance.
- YY.** "Violation of Practice" means a violation of the New Mexico Nursing Home Administrators Act and the rules and regulations duly adopted by the Board.
- [2-24-88; 9-18-92; 10-31-95; 16.13.1.7 NMAC – Rn, 16 NMAC 13.1.7, 1-25-2001]

16.13.1.8 SEVERABILITY: If any part or application of Chapter 13 of Title 16 is held invalid, the remainder, or its application to their situations or persons, shall not be affected.
[2-24-88; 2-13-94; 10-31-95; 16.13.1.8 NMAC – Rn, 16 NMAC 13.1.8, 1-25-2001]

16.13.1.9 EXCEPTIONS: Chapter 13 does not apply to boarding homes or to sheltered-care facilities. Intermediate care facilities for the mentally retarded that are properly licensed by the health department, as intermediate care facilities are not nursing homes as defined by the Nursing Home Administrators Act. Therefore, their administrators are not required to be licensed as a nursing home administrator.
[2-24-88; 2-13-94; 10-31-95; 16.13.1.9 NMAC – Rn, 16 NMAC 13.1.9, 1-25-2001]

16.13.1.10 INSPECTION OF PUBLIC RECORDS: The Board operates in compliance with the Inspection of Public Records Act, NMSA 1978 Sections 14-2-1 through 14-2-16. The Board administrator is the custodian of the Board's records.
[10-31-95; 16.13.1.10 NMAC – Rn, 16 NMAC 13.1.10, 1-25-2001]

16.13.1.11 TELEPHONE CONFERENCES: As authorized by NMSA 1978 (1993 Repl. Pamp.) Section 10-15-1.C of the Open Meetings Act, when it is difficult or impossible for a Board member to attend a Board meeting in person, the member may participate by means of a conference telephone or similar communications equipment. Participation by such means shall constitute presence in person at the meeting. Each member participating by conference telephone must be identified when speaking. All participants must be 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.
[2-13-94, 10-31-95; 16.13.1.11 NMAC – Rn, 16 NMAC 13.1.11, 1-25-2001]

HISTORY of 16.13.1 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NHA Manual #88-1, Administrative Rules and Regulations of the New Mexico Board of Nursing Home Administrators, filed 01-25-88.

History of Repealed Material: [Reserved]

Other History:

16 NMAC 13.1, General Provisions, filed 10-13-95 replaced that relevant portion of NHA Manual #88-1, filed 01-25-88.

16 NMAC 13.1, General Provisions, filed 10-13-95, renumbered and reformatted to 16.13.1 NMAC, effective 1-25-2001.

PART 2 FEES

16.13.2.1 ISSUING AGENCY: New Mexico Nursing Home Administrators Board.
[10-31-95; 01-10-2000; A, 7-10-2000; 16.13.2.1 NMAC - Rn, 16 NMAC 13.2.1, 1-25-2001]

16.13.2.2 SCOPE: The provisions in Part 2 of Chapter 13 apply to all license applicants; to active, inactive, expired and lapsed licensees; and to anyone who requests written verification of licensure from the Board.
[10-31-95; 16.13.2.2 NMAC - Rn, 16 NMAC 13.2.2, 1-25-2001]

16.13.2.3 STATUTORY AUTHORITY: Part 2 of Chapter 13 is promulgated pursuant to the Nursing Home Administrators Act, NMSA 1978 Sections 61-13-8, 61-13-12 and 61-13-6.A (1993 Repl. Pamp.).
[2-24-88; 2-13-94; 10-31-95; 16.13.2.3 NMAC - Rn, 16 NMAC 13.2.3, 1-25-2001]

16.13.2.4 DURATION: Permanent.
[10-31-95; 16.13.2.4 NMAC - Rn, 16 NMAC 13.2.4, 1-25-2001]

16.13.2.5 EFFECTIVE DATE: October 31, 1995.
[2-24-88...10-31-95; 16.13.2.5 NMAC - Rn, 16 NMAC 13.2.5, 1-25-2001]

16.13.2.6 OBJECTIVE: The objective of Part 2 of Chapter 13 is to establish the fees to generate sufficient revenues required by the Board to carry out its administrative functions.
[10-31-95; 16.13.2.6 NMAC - Rn, 16 NMAC 13.2.6, 1-25-2001]

16.13.2.7 DEFINITIONS: [RESERVED]
[10-31-95; 16.13.2.7 NMAC - Rn, 16 NMAC 13.2.7, 1-25-2001]

16.13.2.8 FEES:

- A.** All fees are non-refundable.
 - B.** Application and licensure fees for exam candidate:
 - (1) application fee: **\$200.00**;
 - (2) licensure fee: **\$200.00**.
 - C.** Examination and computer based testing fees: These fees are determined by the current cost of the national licensing exam and the computer based testing center's fees for scheduling services and use of its facility and computer equipment. These fees are payable directly to NAB by electronic means such as credit card authorization; and are aid when applying on-line to take the exam.
 - D.** Reexamination fee: Includes (a) the current cost of the national licensing exam and testing center's fees payable directly to NAB on-line, **and** (b) an administrative processing fee of **\$50.00** payable directly to the board.
 - E.** Renewal fee: **\$200.00**.
 - F.** Application and licensure fees for reciprocity candidate:
 - (1) application fee: **\$200.00**;
 - (2) licensure fee: **\$200.00**.
 - G.** Late penalty fee: **\$100.00**.
 - H.** Inactive status fee: **\$75.00**.
 - I.** Reactivation from inactive status fee: **\$200.00**.
 - J.** Reactivation from expired status fee: **\$300.00** (\$200.00 plus \$100.00 late penalty fee).
 - K.** Duplicate renewal license fee: **\$25.00**.
 - L.** Duplicate of initial wall license fee: **\$60.00**.
 - M.** Written verification of licensure fee: **\$10.00**.
 - N.** Administrative fee for application packet: **\$10.00**. Application packet is also downloadable from the board's internet website at www.rld.state.nm.us at no cost.
 - O.** Administrative fee for copy of rules and regulations: **\$15.00**. Application packet is also downloadable from the board's internet website at www.rld.state.nm.us at no cost.
 - P.** Temporary permit for reciprocity applicants: **\$125.00**.
- [2-24-88; 9-18-92; 10-31-95; 1-10-2000; A, 7-10-2000; A, 08-03-2000; 16.13.2.8 NMAC - Rn & A, 16 NMAC 13.2.8, 1-25-2001; A, 04-15-2002; A, 02-15-2004]

HISTORY of 16.13.2 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NHA Manual #88-1, Administrative Rules and Regulations of the New Mexico Board of Nursing Home Administrators, filed 01-25-88.

History of Repealed Material: [Reserved]

Other History:

16 NMAC 13.2, Fees, filed 10-13-95 replaced that relevant portion of NHA Manual #88-1, filed 01-25-88.

16 NMAC 13.2, Fees, filed 10-13-95, renumbered and reformatted to 16.13.2 NMAC, effective 1-25-2001.

PART 3 APPLICATION FOR LICENSURE BY EXAMINATION

16.13.3.1 ISSUING AGENCY: New Mexico Nursing Home Administrators Board.
[10-31-95; 01-10-2000; 16.13.3.1 NMAC - Rn, 16 NMAC 13.3.1, 1-25-2001; A, 02-15-2004]

16.13.3.2 SCOPE: The provisions in Part 3 of Chapter 13 apply to all license applicants who have never been licensed to practice nursing home administration in any other state and are seeking approval to sit for the national standards licensing exam in order to qualify for licensure in New Mexico. Part 3 of Chapter 13 also applies to previously licensed New Mexico NHA licensees who have allowed their licenses to lapse (See 16.13.11 NMAC) and are seeking relicensure.
[10-31-95; 16.13.3.2 NMAC - Rn, 16 NMAC 13.3.2, 1-25-2001]

16.13.3.3 STATUTORY AUTHORITY: Part 3 of Chapter 13 is promulgated pursuant to the Nursing Home Administrators Act, NMSA 1978 Sections 61-13-6, 61-13-8, 61-13-10, 61-13-13, and 61-13-14 (1997 Repl. Pamp.).
[10-31-95; 11-29-97; 16.13.3.3 NMAC - Rn, 16 NMAC 13.3.3, 1-25-2001]

16.13.3.4 DURATION: Permanent.
[10-31-95; 16.13.3.4 NMAC - Rn, 16 NMAC 13.3.4, 1-25-2001]

16.13.3.5 EFFECTIVE DATE: October 31, 1995, unless a later date is cited at the end of a section.
[2-24-88...10-31-95; 11-29-97; 16.13.3.5 NMAC - Rn, 16 NMAC 13.3.5, 1-25-2001; A, 02-15-2004]

16.13.3.6 OBJECTIVE: The objective of Part 3 of Chapter 13 is to establish the requirements for application for licensure by examination.
[10-31-95; 16.13.3.6 NMAC - Rn, 16 NMAC 13.3.6, 1-25-2001]

16.13.3.7 DEFINITIONS:

- A.** “**Application for licensure form**” means the application form approved by the board for the candidate to apply for licensure by the board.”
- B.** “**Authorization letter**” means the letter from the examination service authorizing the eligible candidate to sit for the national examination.
- C.** “**CBT**” refers to computer based test or testing.
- D.** “**CBT fee**” refers to the computer based testing fee assessed by the CBT vendor.
- E.** “**CBT vendor**” means the contractor who provides scheduling services, testing center facility, and use of computer equipment to candidates eligible to take the national standard licensing exam in computer based format.
- F.** “**Computer based test**” means a type of test in computer-based format designed to be administered through the use of a computer as opposed to a written test.
- G.** “**Computer based testing fee**” means the fee charged to the candidate by the CBT vendor for scheduling services and for use of the vendor’s facility and computer equipment while taking the examination.
- H.** “**Eligibility list**” means the candidates listed by the service as eligible to take the examination.
- I.** “**Eligibility period**” means the sixty-day (60) period from the date specified on the authorization letter to the eligible candidate.
- J.** “**Examination**” means the national licensing examination for licensure as provided by the national association of boards of examiners for long term care administrators (NAB), or its successor.
- K.** “**Examination application form**” means *NAB’s application form for computerized testing*, which must be completed on-line through NAB’s website.
- L.** “**Examination fee**” means the fee for the examination payable to NAB.
- M.** “**NAB**” is the acronym for the national association of boards of examiners for long term care administrators.

N. “**National examination agency**” means the national association of boards of examiners for long term care administrators or its successor.

O. “**Professional examination service**” means NAB’s contractor for facilitating the development and offering of the examination in computer-based format.

P. “**Service**” refers to the professional examination service.

Q. “**Testing center**” means the CBT vendor location(s) where the examination is administered. [01-10-2000; 16.13.3.7 NMAC - Rn, 16 NMAC 13.3.7, 1-25-2001; A, 02-15-2004]

16.13.3.8 PREREQUISITE REQUIREMENTS: All applicants for licensure by examination must:

A. be of good moral character;

B. have completed a degreed baccalaureate program at an accredited institution of higher learning in a course of study approved by the board as adequate preparation for nursing home administration; and

C. complete the application process as set forth by board regulation and policy.

D. REPEALED.

[2-24-88; 9-18-92; 2-13-94; 10-31-95; 01-10-2000; 16.13.3.8 NMAC - Rn, 16 NMAC 13.3.8, 1-25-2001; A, 02-15-2004]

16.13.3.9 DOCUMENTATION AND OTHER REQUIREMENTS: Each applicant for licensure by examination must provide the following documents and fees to the board. *Applications for licensure are valid for one year from date of receipt, and will be purged from the board’s records after that date.*

A. A completed board-approved application for licensure form, signed in the presence of a notary public.

B. A recent (within the last year) passport-type photograph of the applicant that the applicant has signed on the back in the presence of a notary public.

C. A copy of the applicant's birth certificate.

D. Complete official transcript(s) leading up to and showing that the applicant has been awarded a baccalaureate degree, and sent directly to the board by the institution(s).

E. A statement of any other professional licenses held by the applicant either in New Mexico or in other states, and copies of the license(s).

F. Completed verification of licensure form(s) sent directly to the board by the applicant's other state(s) of professional licensure.

G. Three letters of reference from persons unrelated to the applicant sent directly to the board by the references.

H. A completed, approved release form authorizing the board to conduct a criminal records check.

I. The application and licensure fee, payable to the board (See Subsection B of 16.13.2.8 NMAC, “Fees”).

J. REPEALED

K. REPEALED

[2-24-88; 9-18-92; 2-13-94; 1-31-95; 10-31-95; 11-29-97; 01-10-2000; 16.13.3.9 NMAC - Rn, 16 NMAC 13.3.9, 1-25-2001; A, 02-15-2004]

16.13.3.10 EXAM ELIGIBILITY DETERMINED: Upon receipt of the completed licensure application form, all other required documentation, and application fee, the board or its designee will review the application materials, determine the applicant's eligibility to sit for the national licensing examination and notify the applicant in writing of eligibility or ineligibility.

A. Upon finding that the applicant is eligible to take the examination, the board shall notify the eligible candidate, in writing, that his or her application has been approved, and provide the candidate with NAB’s website address to apply on-line to take the NAB exam.

B. The service shall notify the board electronically that the candidate has applied to take the examination and the board shall electronically indicate to the service the candidate’s eligibility to take the exam.

C. Candidates are encouraged to wait until they receive official written notice from the board that their licensure application has been approved before they apply on-line to take the NAB exam. If the candidate pre-pays the NAB fee(s) and subsequently does not meet the board’s licensure requirements and the board does not approve the candidate to take the exam, the fee(s) pre-paid to NAB are non-refundable.

[10-31-95; 01-10-2000; 16.13.3.10 NMAC - Rn, 16 NMAC 13.3.10, 1-25-2001; A, 02-15-2004]

16.13.3.11 EXAM SCHEDULE NOTIFICATION: Each eligible candidate will receive from the service, by e-mail, an authorization letter authorizing him or her to sit for an examination. The authorization letter shall contain a list of CBT testing centers, their toll-free telephone numbers, and instructions on the scheduling process for the candidate to use in scheduling an examination. Candidates will also be provided with a direct link through the NAB website that will allow them to schedule their examination on-line with an authorized testing center.

A. Candidates can schedule to sit for an examination at any of the CBT testing centers listed in their authorization letter.

B. Candidates must schedule, and sit for, an examination within sixty (60) days of the date (the “eligibility period”) specified in their authorization letter. If a candidate fails to schedule and sit for an examination within the sixty (60) day eligibility period, he or she will be automatically removed from the eligibility list.

C. Any candidate declared ineligible to take an examination because of his or her failure to schedule and sit for an examination before the end of his or her sixty (60) day eligibility period shall be required to resubmit **a new examination application to NAB, including the required examination fee and CBT fee.**

D. Up to two (2) working days prior to his or her scheduled examination date, a candidate may reschedule to take the examination by calling the CBT vendor’s toll-free telephone number. The candidate will be assessed a \$10.00 fee by the CBT vendor for rescheduling the examination.

E. Candidates who (a) fail to give at least a two (2) working days notice to the CBT vendor of their intention to reschedule their examinations within their sixty (60) day eligibility period, shall forfeit their CBT fees.

F. Candidates may withdraw their NAB examinations applications up to one-day prior to their scheduled examination date. Withdrawals must be requested using the withdrawal option through the NAB on-line system.

[2-24-88; 10-31-95; 01-10-2000; 16.13.3.11 NMAC - Rn, 16 NMAC 13.3.11, 1-25-2001, A, 02-15-2004]

16.13.3.12 IDENTIFICATION Candidates shall arrive at the CBT testing site, where they are scheduled to sit for the exam, at least fifteen (15) minutes prior to their scheduled appointment. Upon arrival at a scheduled exam, candidates shall be asked to show “proof-of-identity” to the CBT vendor.

A. Candidates can show proof-of-identity by presenting a government-issued identification that bears a positive photo of the candidate (e.g., passport, driver’s license, etc.), and a second piece of identification which must, *at the very least*, contain the candidate’s signature (e.g., credit card, school identification, etc.).

B. Prior to sitting for an examination, all candidates will be thumb-printed and photographed by the CBT vendor.

C. All examinations will be videotaped.

[10-31-95; 01-10-2000; 16.13.3.12 NMAC - Rn, 16 NMAC 13.3.12, 1-25-2001]

16.13.3.13 FAILURE TO APPEAR AT SCHEDULED EXAM:

A. Scheduled exam candidates who fail to appear at the exam for which they were scheduled without any prior notification to the CBT vendor (see Subsections D and E of 16.13.3.11, this rule) shall automatically be removed from the eligibility list and shall forfeit their examination and CBT fees.

B. Any candidate declared ineligible to take an examination because of his or her failure to schedule, or to properly cancel, or to sit for an examination before the end of his or her sixty (60) day Eligibility Period shall be required to resubmit **a new examination application to NAB, including the required examination fee and CBT fee.**

[2-24-88; 9-18-92; 10-31-95; 01-10-2000; 16.13.3.13 NMAC - Rn, 16 NMAC 13.3.13, 1-25-2001; A, 02-15-2004]

16.13.3.14 AMERICANS WITH DISABILITIES ACT OF 1990: As the national examination agency, NAB reserves sole responsibility for approving candidate requests for special accommodations under the Americans With Disabilities Act of 1990 (Public Law 101-336) (the “ADA”), provided the candidate provides timely notice and request of specific reasonable accommodations.

A. Requests for special accommodations should be indicated at the time of candidate application to NAB.

B. The board will make eligibility determination for NAB approved accommodations as specified in the NAB exam application under “special accommodations”.

C. NAB must approve all other requests.

D. Professional documentation to support the specific request for reasonable accommodations falling under item 16.13.3.14.B NMAC is required and must be submitted to the board by the candidate no less than seven (7) weeks prior to the candidate's anticipated test date. The completed "*candidate request for special examination accommodations*" form, downloadable from the NAB exam application site, must accompany this documentation. The professional documentation in support of the specific request for reasonable accommodations specified in 16.13.3.14.B NMAC must be approved and submitted by the board to NAB no less than four (4) weeks prior to the candidate's anticipated test date.
[16.13.3.14 NMAC - N, 02-15-2004]

HISTORY of 16.13.3 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NHA Manual #88-1, Administrative Rules and Regulations of the New Mexico Board of Nursing Home Administrators, filed 01-25-88.

History of Repealed Material: [Reserved]

Other History:

16 NMAC 13.3 Application for Licensure by Examination, filed 10-13-95 replaced that relevant portion of NHA Manual #88-1, filed 01-25-88.

16 NMAC 13.3, Application for Licensure by Examination, filed 10-13-95, renumbered and reformatted to 16.13.3 NMAC, Application for Licensure by Examination, effective 1-25-2001.

PART 4 EXAMINATION OF APPROVED APPLICANTS

16.13.4.1 ISSUING AGENCY: New Mexico Nursing Home Administrators Board
[01-10-2000; 16.13.4.1 NMAC - Rn, 16 NMAC 13.4.1, 1-25-2001, A, 04-15-2002]

16.13.4.2 SCOPE: The provisions in Part 4 of Chapter 13 apply to all license applicants who have met the New Mexico application requirements and have been approved by the Board to sit for the national licensing exam.
[10-31-95; 16.13.4.2 NMAC - Rn, 16 NMAC 13.4.2, 1-25-2001]

16.13.4.3 STATUTORY AUTHORITY: Part 4 of Chapter 13 is promulgated pursuant to the Nursing Home Administrators Act, NMSA 1978 Section 61-13-8 and 61-13-10 (1993 Repl. Pam.).
[10-31-95; 16.13.4.3 NMAC - Rn, 16 NMAC 13.4.3, 1-25-2001]

16.13.4.4 DURATION: Permanent.
[10-31-95; 16.13.4.4 NMAC - Rn, 16 NMAC 13.4.4, 1-25-2001]

16.13.4.5 EFFECTIVE DATE: October 31, 1995.
[2-24-88...10-31-95; 16.13.4.5 NMAC - Rn, 16 NMAC 13.4.5, 1-25-2001]

16.13.4.6 OBJECTIVE: The objective of Part 4 of Chapter 13 is to set forth regulations regarding examination policies and procedures.
[10-31-95; 16.13.4.6 NMAC - Rn, 16 NMAC 13.4.6, 1-25-2001]

16.13.4.7 DEFINITIONS:

A. "**Service**" refers to Professional Examination Service, the National Boards of Examiners for Long Term Care Administrators' contractor for preparing the examination in computer-based format and for facilitating the administration of the exam to eligible candidates.

B. "**Score Transfer Fee**" means a fee in an amount set by the Service and payable by the candidate to the Service for score transfer requests.

C. “Examination” means the national licensing examination for licensure as provided by the National Association of Boards of Examiners for Long Term Care Administrators (NAB), or its successor. [01-10-2000; 16.13.4.7 NMAC - Rn, 16 NMAC 13.4.7, 1-25-2001]

16.13.4.8 TEST DATES: The national licensing exam, available as of January 1, 2000 in computer based format, may be scheduled by the candidate at the candidate’s convenience during the Eligibility Period assigned to each eligible candidate on his or her Authorization Letter from the Examination Service (see Part 3 of 16.13 NMAC).

A. Time Alloted For Examination: Candidates shall have three (3) hours to take the NAB examination.

B. Examination Tutorial: Prior to an examination beginning, a tutorial will be presented to familiarize the candidate with the examination format. During the examination, candidates can move forward or backward between items on the exam. If they choose, they may mark items for later review. [2-24-88, 9-18-92, 10-31-95, 01-10-2000; 16.13.4.8 NMAC - Rn, 16 NMAC 13.4.8, 1-25-2001; A, 04-15-2002]

16.13.4.9 SCORE REQUIRED: The minimum **scale** score of one hundred thirteen (113) accepted nationally since June 1990 for successful completion of the national licensing exam shall be accepted for licensure in New Mexico. [2-24-88, 9-18-92, 2-13-94, 10-31-95; 16.13.4.9 NMAC - Rn, 16 NMAC 13.4.9, 1-25-2001; A, 02-15-2004]

16.13.4.10 EXAM IRREGULARITIES: Exam candidates observed giving and/or receiving unauthorized assistance while sitting for an examination must leave upon request of the CBT vendor or they shall be physically removed from the examination center. The individual(s) shall be referred to the Board by sworn complaint filed by the CBT vendor. [2-24-88; 9-18-92; 10-31-95; 01-10-2000; 16.13.4.10 NMAC - Rn, 16 NMAC 13.4.10, 1-25-2001]

16.13.4.11 TEST RESULTS: Candidates’ *pass/fail status* will be available to candidates from the CBT vendor. The CBT vendor will only release *score reports* to the examination service, which will then forward the results to the board. Within a reasonable time after the board receives the test results from the examination service, the board will inform each examination candidate, in writing, of individual test results. Exam results will not be given over the phone.

A. A candidate may request that the service transfer his or her examination score to multiple jurisdictions.

B. The candidate shall pay the service a score transfer fee as set forth by the service for each score transfer requested. [9-18-92; 10-31-95; 01-10-2000; 16.13.4.11 NMAC - Rn, 16 NMAC 13.4.11, 1-25-2001; A, 04-15-2002; A, 02-15-2004]

16.13.4.12 REEXAMINATION POLICY: Candidates failing or not completing an examination for reasons other than those set forth in Section 10 of Part 4 (this rule), may retake the same examination up to four (4) times in any twelve (12) month period.

A. However, candidates who wish to retake the examination will be required to reapply to the board *for the examination* in writing and to submit the applicable reexamination-processing fee payable to the board for each exam retake (see 16.13.2.8.D NMAC). The same procedures outlined in 16.13.3.10 NMAC through 16.13.3.14 NMAC will pertain.

B. The entire examination must be completed on all subsequent attempts. [2-24-88; 9-18-92; 10-31-95; 01-10-2000; 16.13.4.12 NMAC - Rn, 16 NMAC 13.4.12, 1-25-2001; A, 04-15-2002; A, 02-15-2004]

16.13.4.13 REAPPLICATION POLICY: Candidates who do not successfully complete the examination have three more attempts within the twelve months after their first exam to try to pass the exam. If they do not pass the exam within the twelve-month, four-times limit, they must reapply for licensure entirely if they wish to be scheduled for the examination again. Reapplication for licensure involves going through the entire application for licensure process and requires re-submitting all the documents and meeting all other requirements listed in 16.13.3.9 NMAC. [10-31-95; 01-10-2000; 16.13.4.13 NMAC - Rn, 16 NMAC 13.4.13, 1-25-2001; A, 04-15-2002]

HISTORY of 16.13.4 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NHA Manual #88-1, Administrative Rules and Regulations of the New Mexico Board of Nursing Home Administrators, filed 01-25-88.

History of Repealed Material: [Reserved]

Other History:

16 NMAC 13.4, Examination of Approved Applicants, filed 10-13-95 replaced that relevant portion of NHA Manual #88-1, filed 01-25-88.

16 NMAC 13.4, Examination of Approved Applicants, filed 10-13-95, renumbered and reformatted to 16.13.4 NMAC, Examination of Approved Applicants, effective 1-25-2001.

PART 5 APPLICATION FOR LICENSURE BY RECIPROCIITY

16.13.5.1 ISSUING AGENCY: New Mexico Nursing Home Administrators Board.
[10-31-95; 01-10-2000; 16.13.5.1 NMAC - Rn & A, 16 NMAC 13.5.1, 1-25-2001]

16.13.5.2 SCOPE: The provisions in Part 5 of Chapter 13 apply to all persons applying to the Board for nursing home administrator licensure by reciprocity.
[10-31-95; 16.13.5.2 NMAC - Rn, 16 NMAC 13.5.2, 1-25-2001]

16.13.5.3 STATUTORY AUTHORITY: Part 5 of Chapter 13 is promulgated pursuant to the Nursing Home Administrators Act, NMSA 1978 Sections 61-13-6, 61-13-8, 61-13-11, 61-13-12 and 61-13-13 (1997 Repl. Pamp.).
[2-24-88; 2-13-94; 10-31-95; 11-29-97; 16.13.5.3 NMAC - Rn, 16 NMAC 13.5.3, 1-25-2001]

16.13.5.4 DURATION: Permanent.
[10-31-95; 16.13.5.4 NMAC - Rn, 16 NMAC 13.5.4, 1-25-2001]

16.13.5.5 EFFECTIVE DATE: October 31, 1995, unless a later date is cited at the end of a Section.
[2-24-88...10-31-95; 11-29-97; 16.13.5.5 NMAC - Rn & A, 16 NMAC 13.5.5, 1-25-2001]

16.13.5.6 OBJECTIVE: The objective of Part 5 of Chapter 13 is to establish the requirements applicants for licensure by reciprocity must meet in order to be qualified and licensed by the Board to practice nursing home administration in New Mexico.
[10-31-95; 16.13.5.6 NMAC - Rn, 16 NMAC 13.5.6, 1-25-2001]

16.13.5.7 DEFINITIONS: [RESERVED]
[10-31-95; 16.13.5.7 NMAC - Rn, 16 NMAC 13.5.7, 1-25-2001]

16.13.5.8 LICENSE REQUIRED TO PRACTICE: The applicant may not engage in the practice of nursing home administration in New Mexico until approval for licensure by reciprocity has been given and the board has issued an initial license. An applicant may, however, practice nursing home administration in New Mexico if he or she has been issued a temporary permit by the board pursuant to the provisions in 16.13.5.11 NMAC (this rule).
[2-24-88; 9-18-92; 10-31-95; 01-10-2000; 16.13.5.8 NMAC - Rn, 16 NMAC 13.5.8, 1-25-2001; A, 02-15-2004]

16.13.5.9 PREREQUISITE REQUIREMENTS: Acceptance of a reciprocity applicant for licensure is subject to Board approval. All applicants for licensure by reciprocity shall:

- A.** be of good moral character;
- B.** be duly and currently licensed as a nursing home administrator in at least one other state;
- C.** have no history of disciplinary action against any professional licenses ever held;

D. passed the PES or NAB national licensing examination for nursing home administrators in another licensing state; and

E. provide proof of having met education requirements in the state of licensure similar to or better than those required in New Mexico at the time of licensure.

(1) Educational Requirements Prior to June 1993:

(a) A baccalaureate degree in a course of study approved by the Board; or

(b) Graduation from high school and four years of experience in a nursing home as a Director of Nursing, Administrative Assistant, Assistant Administrator, Administrative or Professional Manager, or Department Director in a nursing home; or

(c) Graduation from high school and four years of experience as a Hospital Administrator

(2) Educational Requirements After June 1993: A baccalaureate degree from an accredited institution in a course of study approved by the Board as being adequate preparation for nursing home administration.

[2-24-88; 9-18-92; 2-13-94; 10-31-95; 16.13.5.9 NMAC - Rn, 16 NMAC 13.5.9, 1-25-2001]

16.13.5.10 DOCUMENTATION REQUIRED: All applicants for licensure by reciprocity are required to provide the following documentation to the Board. Applications for licensure are valid for one year from the date of receipt.

A. A completed Board-approved application form, signed in the presence of a notary public;

B. A recent (within the last year) passport-type photograph of the applicant, which the applicant has signed on the back in the presence of a notary public;

C. A copy of the applicant's birth certificate;

D. A statement of other professional license(s) held by the applicant with copies of each license attached;

E. Three letters of reference from persons unrelated to the applicant sent directly to the Board by the references;

F. The required application/licensure fee for reciprocity (See Subsection F of 16.13.2.8 NMAC);

G. A completed Board-approved Verification of Licensure Form sent directly to the Board by any other state professional licensing board verifying:

(1) the status of the applicant's license, whether current and in good standing or otherwise;

(2) the applicant's pass score on the NAB or PES national licensing exam; and

(3) the educational requirements the applicant met for licensure.

H. A completed, approved release form authorizing the Board to conduct a criminal records check. [10-31-95; 11-29-97; 01-10-2000; 16.13.5.10 NMAC - Rn, 16 NMAC 13.5.10, 1-25-2001]

16.13.5.11 TEMPORARY PERMIT PROVISION: Applicants for licensure by reciprocity may be issued a temporary permit to practice nursing home administration in New Mexico while the application process is being completed.

A. The permit may be issued after the board has received a completed board-approved application form; proof of being currently licensed as a nursing home administrator in another licensing jurisdiction, such as a copy of the state license; and reciprocity application fee as set forth in Subsection F (1) of 16.13.2 NMAC.

B. If the reciprocity applicant desires a temporary permit, he or she must request it in writing, specifying the desired date of issuance, and providing the necessary temporary permit fee as set forth in Subsection P of 16.13.2 NMAC.

C. Upon receipt of the items set forth in Subsections A and B of 16.13.5.11 NMAC, the temporary permit shall be issued for a maximum period of one-hundred-twenty (120) days from the requested date of issuance.

D. The temporary permit is not renewable.

[11-29-97; 01-10-2000; 16.13.5.11 NMAC - Rn & A, 16 NMAC 13.5.11, 1-25-2001; A, 02-15-2004]

16.13.5.12 PROVISIONS FOR EMERGENCY LICENSURE:

A. Nursing home administrators currently licensed and in good standing, or otherwise meeting the requirements for New Mexico licensure in a state in which a federal disaster has been declared, may be licensed in New Mexico during the (4) four months following the declared disaster at no cost upon satisfying the following requirements:

(1) receipt by the nursing home administrators board office a completed application which has been signed and notarized and which is accompanied by proof of identity, which may include a copy of a drivers license, passport or other photo identification issued by a governmental entity;

(2) refer to 16.13.3.9 NMAC, Documentation and Other Requirements and 16.13.5.8 NMAC, License Required to Practice;

(3) other required verification may be obtained by the national association of boards of examiners for long term care administrators (NAB);

(4) sworn affidavit that the applicant was personally and/or professionally effected by the disaster;

(5) nothing in this section shall constitute a waiver of qualifications of the requirements for licensure contained in 16.13.3.9 NMAC, 16.13.5.8 NMAC.

B. The board may waive the application fees.

C. The board may waive the specific forms required under **16.13.3.9 NMAC only** if the applicant is unable to obtain documentation from the federal declared disaster areas.

D. EMERGENCY PROVISIONAL LICENSE shall expire on March 31st, following the date of issue. Application for initial license shall be made on or before Feb 1st following the date of issue of the emergency provisional license.

E. The board reserves the right to request additional documentation, including but not limited to, recommendation forms and work experience verification forms prior to approving the initial license.

[16.13.5.12 NMAC - N/E, 11/29/2005]

16.13.5.13 TERMINATION OF EMERGENCY LICENSE:

A. The emergency license shall terminate upon the following circumstances:

(1) the issuance of a permanent license under section 16.13.7.8 NMAC, 16.13.7.9 NMAC or

(2) proof that the emergency license holder has engaged in *fraud, deceit, or misrepresentation* in procuring or attempting to procure a license under this section.

B. Termination of an emergency license shall not preclude application for permanent licensure.

[16.13.5.13 NMAC - N/E, 11/29/2005]

HISTORY of 16.13.5 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NHA Manual #88-1, Administrative Rules and Regulations of the New Mexico Board of Nursing Home Administrators, filed 01-25-88.

History of Repealed Material: [Reserved]

Other History:

16 NMAC 13.5, Application for Licensure by Reciprocity, filed 10-13-95 replaced that relevant portion of NHA Manual #88-1, filed 01-25-88.

16 NMAC 13.5, Application for Licensure by Reciprocity, filed 10-13-95, renumbered and reformatted to 16.13.5 NMAC, Application for Licensure by Reciprocity, effective 1-25-2001.

PART 7 LICENSE ISSUANCE

16.13.7.1 ISSUING AGENCY: New Mexico Nursing Home Administrators Board.

[10-31-95; 16.13.7.1 NMAC - Rn, 16 NMAC 13.7.1, 1-25-2001; A, 04-15-2002]

16.13.7.2 SCOPE: The provisions in Part 7 of Chapter 13 apply to all applicants who have met all the requirements, either by examination or by reciprocity, for licensure as a nursing home administrator in New Mexico.

[10-31-95; 16.13.7.2 NMAC - Rn, 16 NMAC 13.7.2, 1-25-2001]

16.13.7.3 STATUTORY AUTHORITY: Part 7 of Chapter 13 is promulgated pursuant to the Nursing Home Administrators Act, NMSA 1978 Sections 61-13-8, 61-13-10, 61-13-11, and 61-13-12 (1993 Repl. Pamp.). [10-31-95; 16.13.7.3 NMAC - Rn, 16 NMAC 13.7.3, 1-25-2001]

16.13.7.4 DURATION: Permanent. [10-31-95; 16.13.7.4 NMAC - Rn, 16 NMAC 13.7.4, 1-25-2001]

16.13.7.5 EFFECTIVE DATE: October 31, 1995. [10-31-95; 16.13.7.5 NMAC - Rn, 16 NMAC 13.7.5, 1-25-2001]

16.13.7.6 OBJECTIVE: The objective of Part 7 of Chapter 13 is to establish the policies and procedures for issuance of a nursing home administrators license to qualified applicants. [10-31-95; 16.13.7.6 NMAC - Rn, 16 NMAC 13.7.6, 1-25-2001]

16.13.7.7 DEFINITIONS: [RESERVED] [10-31-95; 16.13.7.7 NMAC - Rn, 16 NMAC 13.7.7, 1-25-2001]

16.13.7.8 APPROVED EXAMINATION APPLICANT: After the applicant has met all the requirements for licensure by examination, has successfully passed the national licensing examination, and has been approved by the Board, the Board may issue the applicant an initial license to practice nursing home administration in New Mexico. [10-31-95; 16.13.7.8 NMAC - Rn, 16 NMAC 13.7.8, 1-25-2001]

16.13.7.9 APPROVED RECIPROCITY APPLICANT: After the applicant has met all the requirements for licensure by reciprocity, and has been approved for licensure by the Board, the Board may issue the applicant an initial license to practice nursing home administration in New Mexico. [10-31-95; 16.13.7.9 NMAC - Rn, 16 NMAC 13.7.9, 1-25-2001]

16.13.7.10 PRORATED FIRST RENEWAL:

A. All current nursing home administrators licenses will expire on March 31 of the year. Individuals receiving their initial New Mexico nursing home administrators license may be required to renew their license in less than twelve (12) months depending on the first license issue date in order to get into the proper renewal cycle. In such cases, the renewal fee and the continuing education (CE) hours required will be prorated at the first renewal (Same calculation method used in 16.13.13.9 NMAC).

B. The Board will prorate the first renewal fee by multiplying one-twelfth of the annual renewal fee by the number of months from the month of first issuance up to and including the license expiration month (See 16.13.8.8 NMAC). [10-31-95; 16.13.7.10 NMAC - Rn, 16 NMAC 13.7.10, 1-25-2001; A, 04-15-2002]

16.13.7.11 LICENSE DISPLAY: The initial wall license must be displayed at the nursing home where the administrator is employed. [10-31-95; 16.13.7.11 NMAC - Rn, 16 NMAC 13.7.11, 1-25-2001]

16.13.7.12 ADDRESS/EMPLOYMENT CHANGES: It is the licensee's responsibility to keep the Board immediately informed of any changes in address, phone numbers, and place of employment so that renewal notices and correspondence from the Board will be received by the licensee on a timely basis.

A. Notification of address or employment changes will only be accepted in writing.

B. Notification of facility administrator or changes of facility administrator to the Health Department's Bureau of Licensing and Certification does **not** constitute notification of changes of employment to the Board.

[10-31-95; 16.13.7.12 NMAC - Rn, 16 NMAC 13.7.12, 1-25-2001]

16.13.7.13 NOTICE TO OTHER STATE AGENCIES: The board has a "licensee search" link available on its website at www.rld.state.nm.us/b&c/nhab for interested parties to verify whether or not a person is currently licensed by the board. The website licensee information is updated daily as new licenses are issued and license

status changes occur. Hard-copy lists are available to other state agencies upon request and at no cost; and to other parties for a minimal administrative fee, however, the information on hardcopy lists can rapidly become outdated [10-31-95; 16.13.7.13 NMAC - Rn, 16 NMAC 13.7.13, 1-25-2001; A, 02-15-2004]

HISTORY of 16.13.5 NMAC:

Pre-NMAC History: None

History of Repealed Material: [RESERVED]

Other History: 16 NMAC 13.7, License Issuance, filed 10-13-95, renumbered and reformatted to 16.13.7 NMAC, License Issuance, effective 1-25-2001.

PART 8 LICENSE RENEWAL

16.13.8.1 ISSUING AGENCY: New Mexico Nursing Home Administrators Board
[10-31-95; 16.13.8.1 NMAC – Rn, 16 NMAC 13.8.1, 1-25-2001; A, 04-15-2002]

16.13.8.2 SCOPE: The provisions in Part 8 of Chapter 13 apply to currently licensed nursing home administrators.
[10-31-95; 16.13.8.2 NMAC – Rn, 16 NMAC 13.8.2, 1-25-2001]

16.13.8.3 STATUTORY AUTHORITY: Part 8 of Chapter 13 is promulgated pursuant to the Nursing Home Administrators Act, NMSA 1978 Sections 61-13-6, 61-13-9.B and 61-13-12 (1993 Repl. Pamp.).
[10-31-95; 16.13.8.3 NMAC – Rn, 16 NMAC 13.8.3, 1-25-2001]

16.13.8.4 DURATION: Permanent.
[10-31-95; 16.13.8.4 NMAC – Rn, 16 NMAC 13.8.4, 1-25-2001]

16.13.8.5 EFFECTIVE DATE: October 31, 1995.
[2-24-88...10-31-95; 16.13.8.5 NMAC – Rn, 16 NMAC 13.8.5, 1-25-2001]

16.13.8.6 OBJECTIVE: The objective of Part 8 of Chapter 13 is to establish the policies, procedures, and regulations for license renewal.
[10-31-95; 16.13.8.6 NMAC – Rn, 16 NMAC 13.8.6, 1-25-2001]

16.13.8.7 DEFINITIONS: [RESERVED]
[10-31-95; 16.13.8.7 NMAC – Rn, 16 NMAC 13.8.7, 1-25-2001]

16.13.8.8 LICENSE RENEWAL REQUIREMENT: Nursing home administrator licenses expire annually on the last day of March. All applicants for license renewal must complete and sign a Board-approved renewal application, meet the continuing education requirements (See Part 13 and 14 of 16.13 NMAC), and pay the required renewal fee (See Subsection E of 16.13.2.8 NMAC) before qualifying for license renewal.
[2-24-88; 3-20-91; 2-13-94; 10-31-95; 16.13.8.8 NMAC – Rn, 16 NMAC 13.8.8, 1-25-2001; A, 04-15-2002]

16.13.8.9 REQUIREMENTS FOR OUT OF STATE LICENSEES: Individuals who reside out of state, but wish to maintain a current and valid New Mexico license, must meet the same requirements for license renewal as residents of New Mexico.
[2-24-88; 3-20-91; 2-13-94; 10-31-95; 16.13.8.9 NMAC – Rn, 16 NMAC 13.8.9, 1-25-2001]

16.13.8.10 RENEWAL APPLICATION NOTICE: At least six weeks prior to the expiration date, the Board will mail the license renewal application to the licensee's last known address on file.
[2-24-88; 3-20-91; 2-13-94; 10-31-95; 16.13.8.10 NMAC – Rn, 16 NMAC 13.8.10, 1-25-2001]

16.13.8.11 LICENSEE RESPONSIBILITY: The Board assumes no responsibility for renewal applications not received by the licensee for any reason. It is the licensee's responsibility to make timely request for the renewal form if one has not been received thirty days prior to license expiration date.
[2-24-88; 3-20-91; 2-13-94; 10-31-95; 16.13.8.11 NMAC – Rn, 16 NMAC 13.8.11, 1-25-2001]

16.13.8.12 RENEWAL DEADLINE:

A. The completed license renewal application, verifications of continuing education, and applicable renewal fee must be received by the Board postmarked on or before the last day of the renewal month in order for the renewal application to be in compliance with these regulations and for the license to remain valid.

B. The licensee does not hold a valid license and shall not hold a nursing home administrator position in New Mexico until the expired license has been reactivated.
[2-24-88; 3-20-91; 2-13-94; 10-31-95; 16.13.8.12 NMAC – Rn, 16 NMAC 13.8.12, 1-25-2001]

16.13.8.13 INCOMPLETE APPLICATIONS:

A. Unsigned, incorrect, or otherwise incomplete renewal applications will be rejected and returned to the licensee for correction or completion.

B. Any renewal application, corrected or otherwise, returned to the Board postmarked **after** the last day of the renewal month, must be accompanied by an additional late penalty fee (See Subsection G of 16.13.2.8 NMAC).
[10-31-95; 16.13.8.13 NMAC – Rn, 16 NMAC 13.8.13, 1-25-2001]

16.13.8.14 RENEWAL APPLICATION APPROVED: If a license renewal application receives approval, a renewal license will be mailed to the licensee.
[10-31-95; 16.13.8.14 NMAC – Rn, 16 NMAC 13.8.14, 1-25-2001]

16.13.8.15 RENEWAL LICENSE DISPLAY: The renewal license must be displayed with the initial wall certificate at the nursing home where the licensee is employed.
[10-31-95; 16.13.8.15 NMAC – Rn, 16 NMAC 13.8.15, 1-25-2001]

HISTORY of 16.13.8 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NHA Manual #88-1, Administrative Rules and Regulations of the New Mexico Board of Nursing Home Administrators, filed 01-25-88.

History of Repealed Material: [Reserved]

Other History:

16 NMAC 13.8, License Renewal, filed 10-13-95 replaced that relevant portion of NHA Manual #88-1, filed 01-25-88.

16 NMAC 13.8, License Renewal, filed 10-13-95, renumbered and reformatted **to** 16.13.8 NMAC, License Renewal, effective 1-25-2001.

PART 9 INACTIVE STATUS

16.13.9.1 ISSUING AGENCY: New Mexico Nursing Home Administrators Board 725 St. Michael's Drive Santa Fe, New Mexico 87504 (505) 827-7170.
[10-31-95; 16.13.9.1 NMAC – Rn, 16 NMAC 13.9.1, 1-25-2001]

16.13.9.2 SCOPE: The provisions in Part 9 of Chapter 13 apply to New Mexico licensees whose licenses are current and in good standing, and who wish to place their licenses on inactive status.
[10-31-95; 16.13.9.2 NMAC – Rn, 16 NMAC 13.9.2, 1-25-2001]

16.13.9.3 STATUTORY AUTHORITY: Part 9 of Chapter 13 is promulgated pursuant to the Nursing Home Administrators Act, NMSA 1978 Sections 61-13-6.B and 61-13-9 (1993 Repl. Pamp.).
[10-31-95; 16.13.9.3 NMAC – Rn, 16 NMAC 13.9.3, 1-25-2001]

16.13.9.4 DURATION: Permanent.
[10-31-95; 16.13.9.4 NMAC – Rn, 16 NMAC 13.9.4, 1-25-2001]

16.13.9.5 EFFECTIVE DATE: October 31, 1995.
[2-24-88...10-31-95; 16.13.9.5 NMAC – Rn, 16 NMAC 13.9.5, 1-25-2001]

16.13.9.6 OBJECTIVE: The objective of Part 9 of Chapter 13 is to set forth the policies, procedures, and regulations for placing a current license in good standing with the Board on inactive status.
[10-31-95; 16.13.9.6 NMAC – Rn, 16 NMAC 13.9.6, 1-25-2001]

16.13.9.7 DEFINITIONS: [RESERVED]
[10-31-95; 16.13.9.7 NMAC – Rn, 16 NMAC 13.9.7, 1-25-2001]

16.13.9.8 REQUIREMENTS FOR INACTIVE STATUS: A licensee whose license is in good standing with the Board may request his/her license be placed on inactive status by meeting the following requirements:

- A.** Complete, sign, and return the renewal application form with a written request to be placed on inactive status.
- B.** Submit verifications for the required number of continuing education hours;
- C.** Remit the required inactive status fee (See Subsection H of 16.13.2.8 NMAC); and
- D.** Return the application postmarked on or before the license expiration date.

[2-24-88; 10-31-95; 16.13.9.8 NMAC – Rn, 16 NMAC 13.9.8, 1-25-2001]

16.13.9.9 INACTIVE STATUS NOTIFICATION: Upon receipt of a duly and properly made application for inactive status, the Board or its designee will review and approve the application and send the licensee written verification that the license has been placed on inactive status.
[10-31-95; 16.13.9.9 NMAC – Rn, 16 NMAC 13.9.9, 1-25-2001]

16.13.9.10 INACTIVE STATUS REPEATED: The inactive status fee will be charged each time inactive status is requested following reactivation of the license.
[2-24-88; 10-31-95; 16.13.9.10 NMAC – Rn, 16 NMAC 13.9.10, 1-25-2001]

16.13.9.11 PRACTICE PROHIBITED: The licensee shall not practice nursing home administration or hold a nursing home administrator position until the inactive status license has been reactivated.
[2-24-88; 10-31-95; 16.13.9.11 NMAC – Rn, 16 NMAC 13.9.11, 1-25-2001]

16.13.9.12 TIME LIMITATION ON INACTIVE STATUS LICENSE: Licenses on inactive status which are not reactivated within five (5) years from the date the inactive status was initiated, shall lapse.
[10-31-95; 16.13.9.12 NMAC – Rn, 16 NMAC 13.9.12, 1-25-2001]

HISTORY of 16.13.9 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NHA Manual #88-1, Administrative Rules and Regulations of the New Mexico Board of Nursing Home Administrators, filed 01-25-88.

History of Repealed Material: [Reserved]

Other History:

16 NMAC 13.9, Inactive Status, filed 10-13-95 replaced that relevant portion of NHA Manual #88-1, filed 01-25-88.

16 NMAC 13.9, Inactive Status, filed 10-13-95, renumbered and reformatted to 16.13.9 NMAC, Inactive Status, effective 1-25-2001.

PART 10 EXPIRED LICENSE

16.13.10.1 ISSUING AGENCY: New Mexico Nursing Home Administrators Board
[10-31-95; 16.13.10.1 NMAC – Rn, 16 NMAC 13.10.1, 1-25-2001; A, 04-15-2002]

16.13.10.2 SCOPE: The provisions in Part 10 of Chapter 13 apply to nursing home administrator licensees.
[10-31-95; 16.13.10.2 NMAC – Rn, 16 NMAC 13.10.2, 1-25-2001]

16.13.10.3 STATUTORY AUTHORITY: Part 10 of Chapter 13 is promulgated pursuant to the Nursing Home Administrators Act, NMSA 1978 Sections 16-13-6.B (5), 61-13-9.B, and 61-13-12 (1993 Repl. Pamp.).
[10-31-95; 16.13.10.3 NMAC – Rn, 16 NMAC 13.10.3, 1-25-2001]

16.13.10.4 DURATION: Permanent.
[10-31-95; 16.13.10.4 NMAC – Rn, 16 NMAC 13.10.4, 1-25-2001]

16.13.10.5 EFFECTIVE DATE: October 31, 1995.
[2-24-88...10-31-95; 16.13.10.5 NMAC – Rn, 16 NMAC 13.10.5, 1-25-2001]

16.13.10.6 OBJECTIVE: The objective of Part 10 of Chapter 13 is to establish the policies, rules, and regulations regarding the expiration of a nursing home administrators license.
[10-31-95; 16.13.10.6 NMAC – Rn, 16 NMAC 13.10.6, 1-25-2001]

16.13.10.7 DEFINITIONS: [RESERVED]
[10-31-95; 16.13.10.7 NMAC – Rn, 16 NMAC 13.10.7, 1-25-2001]

16.13.10.8 EXPIRED STATUS: Licenses not renewed on or before the expiration date of the license are expired and invalid.
[2-24-88; 3-20-91; 2-13-94; 10-31-95; 16.13.10.8 NMAC – Rn, 16 NMAC 13.10.8, 1-25-2001]

16.13.10.9 LATE PENALTY: License renewal applications postmarked after the last day of the renewal month **must** be accompanied by a late penalty fee in addition to the renewal fee as set forth in Subsections G and J of 16.13.2.8 NMAC.
[10-31-95; 16.13.10.9 NMAC – Rn, 16 NMAC 13.10.9, 1-25-2001; A, 04-15-2002]

16.13.10.10 FAILURE TO MEET CONTINUING EDUCATION REQUIREMENT: A license shall expire and become invalid if the licensee fails to meet the continuing education requirement for renewal before the license expiration deadline.
[2-24-88; 3-20-91; 2-13-94; 10-31-95; 16.13.10.10 NMAC – Rn, 16 NMAC 13.10.10, 1-25-2001]

16.13.10.11 EXPIRED STATUS NOTIFICATION: The Board will mail a notification of expired status to the licensee's last known address.
[10-31-95; 16.13.10.11 NMAC – Rn, 16 NMAC 13.10.11, 1-25-2001]

16.13.10.12 PRACTICE PROHIBITED: The expired status licensee is prohibited from practicing nursing home administration or holding a nursing home administrator position until the expired license has been reactivated.
[2-24-88; 3-20-91; 2-13-94; 10-31-95; 16.13.10.12 NMAC – Rn, 16 NMAC 13.10.12, 1-25-2001]

16.13.10.13 TIME LIMITATION ON EXPIRED STATUS LICENSE: Expired licenses that are not reactivated within two (2) years from the expiration date shall lapse.

[10-31-95; 16.13.10.13 NMAC – Rn, 16 NMAC 13.10.13, 1-25-2001; A, 04-15-2002]

HISTORY of 16.13.10 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NHA Manual #88-1, Administrative Rules and Regulations of the New Mexico Board of Nursing Home Administrators, filed 01-25-88.

History of Repealed Material: [Reserved]

Other History:

16 NMAC 13.10, Expired License, filed 10-13-95 replaced that relevant portion of NHA Manual #88-1, filed 01-25-88.

16 NMAC 13.10, Expired License, filed 10-13-95, renumbered and reformatted to 16.13.10 NMAC, Expired License, effective 1-25-2001.

PART 11 LAPSED LICENSE

16.13.11.1 ISSUING AGENCY: New Mexico Nursing Home Administrators Board.

[10-31-95; A, 7-10-2000; 16.13.11.1 NMAC – Rn, 16 NMAC 13.11.1, 1-25-2001]

16.13.11.2 SCOPE: The provisions in Part 11 of Chapter 13 apply to licenses that have been on inactive or expired status beyond the time limitations for reactivation.

[10-31-95; A, 7-10-2000; 16.13.11.2 NMAC – Rn, 16 NMAC 13.11.2, 1-25-2001]

16.13.11.3 STATUTORY AUTHORITY: Part 11 of Chapter 13 is promulgated pursuant to the Nursing Home Administrators Act, NMSA 1978 Sections 61-13-6, 61-13-8, 61-13-9, 61-13-11, 61-13-12, and 61-13-13 (1993 Repl. Pamp.).

[10-31-95; 16.13.11.3 NMAC – Rn, 16 NMAC 13.11.3, 1-25-2001]

16.13.11.4 DURATION: Permanent.

[10-31-95; 16.13.11.4 NMAC – Rn, 16 NMAC 13.11.4, 1-25-2001]

16.13.11.5 EFFECTIVE DATE: October 31, 1995.

[10-31-95; 16.13.11.5 NMAC – Rn, 16 NMAC 13.11.5, 1-25-2001]

16.13.11.6 OBJECTIVE: The objective of Part 11 of Chapter 13 is to establish regulations that will allow the Board to qualify and reexamine for minimum competency persons previously licensed by the Board whose licenses have not been active for a period of time, and who wish to be licensed to practice nursing home administration in New Mexico again.

[10-31-95; A, 7-10-2000; 16.13.11.6 NMAC – Rn, 16 NMAC 13.11.6, 1-25-2001]

16.13.11.7 DEFINITIONS: [RESERVED]

[10-31-95; 16.13.11.7 NMAC – Rn, 16 NMAC 13.11.7, 1-25-2001]

16.13.11.8 LAPSED STATUS: Licenses not reactivated from inactive or expired status within the time limitations set forth in 16.13.9.12 or 16.13.10.13 NMAC shall lapse.

[10-31-95; 16.13.11.8 NMAC – Rn, 16 NMAC 13.11.8, 1-25-2001; A, 04-15-2002]

16.13.11.9 APPLICATION FOR LICENSURE REQUIRED: In order to practice nursing home administration in New Mexico, the individual whose license has lapsed must go through the entire application process and meet **all** the licensure requirements in effect at the time of re-application.

[10-31-95; 16.13.11.9 NMAC – Rn, 16 NMAC 13.11.9, 1-25-2001]

16.13.11.10 APPROVAL FOR RE-LICENSURE: After the applicant has met all the requirements for licensure and has been approved by the Board, the Board shall issue the applicant an initial license to practice nursing home administration in New Mexico in accordance with the provisions in 16.13.7 NMAC. [10-31-95; 16.13.11.10 NMAC – Rn, 16 NMAC 13.11.10, 1-25-2001]

16.13.11.11 LICENSE NUMBER: Upon approval and completion of the application process, the next available license number shall be issued to the re-licensed individual. [10-31-95; A, 7-10-2000; 16.13.11.11 NMAC – Rn, 16 NMAC 13.11.11, 1-25-2001]

HISTORY of 16.13.11 NMAC:
Pre-NMAC History: None

History of Repealed Material: [Reserved]

Other History: 16 NMAC 13.11, Lapsed License, filed 10-13-95, renumbered and reformatted to 16.13.10 NMAC, Lapsed License, effective 1-25-2001.

PART 12 LICENSE REACTIVATION

16.13.12.1 ISSUING AGENCY: New Mexico Nursing Home Administrators Board [10-31-95; 16.13.12.1 NMAC – Rn & A, 16 NMAC 13.12.1, 1-25-2001]

16.13.12.2 SCOPE: The provisions in Part 12 of Chapter 13 apply to persons who have placed their nursing home administrators license on inactive status or to persons whose licenses have expired due to non-renewal and who wish to reactivate their license. The inactive or expired licenses are still within the time limitation during which the license can be reactivated. [10-31-95; 16.13.12.2 NMAC – Rn, 16 NMAC 13.12.2, 1-25-2001]

16.13.12.3 STATUTORY AUTHORITY: Part 12 of Chapter 13 is promulgated pursuant to the Nursing Home Administrators Act, NMSA 1978 Section 61-13-6.B (1993 Repl. Pamp.). [2-24-88; 2-13-94; 10-31-95; 16.13.12.3 NMAC – Rn, 16 NMAC 13.12.3, 1-25-2001]

16.13.12.4 DURATION: Permanent. [10-31-95; 16.13.12.4 NMAC – Rn, 16 NMAC 13.12.4, 1-25-2001]

16.13.12.5 EFFECTIVE DATE: October 31, 1995. [10-31-95; 16.13.12.5 NMAC – Rn, 16 NMAC 13.12.5, 1-25-2001]

16.13.12.6 OBJECTIVE: The objective of Part 12 of Chapter 13 is to establish regulations for reactivation of an inactive or expired nursing home administrators license. [10-31-95; 16.13.12.6 NMAC – Rn, 16 NMAC 13.12.6, 1-25-2001]

16.13.12.7 DEFINITIONS: [RESERVED] [10-31-95; 16.13.12.7 NMAC – Rn, 16 NMAC 13.12.7, 1-25-2001]

16.13.12.8 PREREQUISITE REQUIREMENTS FOR REACTIVATION: The licensee must meet the following requirements before his/her inactive or expired license will be reactivated:

- A.** Request from the Board a Reactivation Application Form or download it from the Board's Internet Website;
- B.** Complete, sign, and return the Reactivation Application Form within the time limitations set forth in 16.13.9.12 and 16.13.10.13 NMAC.
- C.** Submit verification of twenty-four (24) hours of continuing education completed within the previous twelve (12) months prior to the reactivation month; and
- D.** Remit the required fee(s) as set forth in Subsections I and J of 16.13.2.8 NMAC.

[10-31-95; 16.13.12.8 NMAC – Rn & A, 16 NMAC 13.12.8, 1-25-2001; A, 04-02-2002]

16.13.12.9 REACTIVATION APPROVED: Upon review and approval of the Reactivation Application, the Board may issue a reactivated license to the licensee.

[10-31-95; 16.13.12.9 NMAC – Rn, 16 NMAC 13.12.9, 1-25-2001]

16.13.12.10 PRORATED RENEWAL REQUIREMENTS: In order to get the licensee back onto the regular renewal cycle with all current nursing home administrators licenses expiring on the last day of March of the year, the next renewal period after reactivation may be shorter than twelve months depending upon the month in which the license is reactivated. This may require proration of the renewal fee and the number of continuing education hours required for the next renewal. Continuing education will be prorated at two (2) hours for each month before the next March. (Same calculation method used in 16.13.13.9 NMAC and 16.13.7.10 NMAC).

[10-31-95; 16.13.12.10 NMAC – Rn, 16 NMAC 13.12.10, 1-25-2001; A, 04-15-2002]

16.13.12.11 RESUMPTION OF PRACTICE ALLOWED: Upon receipt of the reactivated license, the licensee may resume the practice of nursing home administration.

[10-31-95; 16.13.12.11 NMAC – Rn, 16 NMAC 13.12.11, 1-25-2001]

16.13.12.12 DISPLAY OF REACTIVATED LICENSE: The licensee must display the reactivated license at the facility where he/she is employed in the position of nursing home administrator.

[10-31-95; 16.13.12.12 NMAC – Rn, 16 NMAC 13.12.12, 1-25-2001]

HISTORY of 16.13.12 NMAC:

Pre-NMAC History: None

History of Repealed Material: [Reserved]

Other History: 16 NMAC 13.12, License Reactivation, filed 10-13-95, renumbered and reformatted to 16.13.10 NMAC, License Reactivation, effective 1-25-2001.

PART 13 CONTINUING EDUCATION REQUIREMENT

16.13.13.1 ISSUING AGENCY: New Mexico Nursing Home Administrators Board

[10-31-95; 16.13.13.1 NMAC – Rn, 16 NMAC 13.13.1, 1-25-2001; A, 04-15-2002]

16.13.13.2 SCOPE: The provisions in Part 13 of Chapter 13 apply to licensees.

[10-31-95; 16.13.13.2 NMAC – Rn, 16 NMAC 13.13.2, 1-25-2001]

16.13.13.3 STATUTORY AUTHORITY: Part 13 of Chapter 13 is promulgated pursuant to the Nursing Home Administrators Act, NMSA 1978 Sections 61-13-6B and 61-13-9.B (1993 Repl. Pamp.).

[10-31-95; 16.13.13.3 NMAC – Rn, 16 NMAC 13.13.3, 1-25-2001]

16.13.13.4 DURATION: Permanent.

[10-31-95; 16.13.13.4 NMAC – Rn, 16 NMAC 13.13.4, 1-25-2001]

16.13.13.5 EFFECTIVE DATE: October 31, 1995.

[2-24-88...10-31-95; 16.13.13.5 NMAC – Rn, 16 NMAC 13.13.5, 1-25-2001]

16.13.13.6 OBJECTIVE: The objective of Part 13 of Chapter 13 is to set forth the continuing education requirements for renewal of a nursing home administrators license.

[10-31-95; 16.13.13.6 NMAC – Rn, 16 NMAC 13.13.6, 1-25-2001]

16.13.13.7 DEFINITIONS: [RESERVED]

[10-31-95; 16.13.13.7 NMAC – Rn, 16 NMAC 13.13.7, 1-25-2001]

16.13.13.8 HOURS REQUIRED:

A. Upon renewal, reactivation, or reinstatement, a minimum of twenty-four (24) contact (60-minute) hours of Board-approved continuing education must be accrued within the twelve (12) months immediately preceding the license expiration month.

B. Up to six (6) **contact** hours accrued over the required number may be carried over to the next renewal period.

[2-24-88; 3-20-91; 2-13-94; 10-31-95; 16.13.13.8 NMAC – Rn, 16 NMAC 13.13.8, 1-25-2001; A, 04-15-2002]

16.13.13.9 HOURS PRORATED:

A. The Board may prorate the number of continuing education hours required for a licensee to renew the license (see 16.13.7.10 and 16.13.12.10 NMAC).

B. A newly licensed individual or a person who reactivates his or her license and whose next renewal occurs within less than twelve months after the license is issued will be required to earn contact hours equivalent to two (2) hours per month for each month the license is active from the month the license is issued or reactivated to the renewal month.

[2-24-88; 3-20-91; 2-13-94; 10-31-95; 16.13.13.9 NMAC – Rn, 16 NMAC 13.13.9, 1-25-2001; A, 04-15-2002]

16.13.13.10 COPIES OF CONTINUING EDUCATION VERIFICATIONS: Licensees are responsible for maintaining their own continuing education records and for keeping the verifications of attendance at continuing education activities. The Board will accept copies of continuing education attendance verifications at the time of renewal.

[2-24-88; 10-31-95; 16.13.13.10 NMAC – Rn, 16 NMAC 13.13.10, 1-25-2001]

16.13.13.11 INDIVIDUAL COURSES RECORDED ON APPLICATION: The licensee must record each course offering on the continuing education record section of the renewal application form in the manner requested by the Board. Due to space limitations at the Board office, the Board will not retain copies of verifications of continuing education activities once they have been reviewed and approved. The continuing education information recorded on the application form by the licensee is the only permanent record placed in the licensee's file.

[10-31-95; 16.13.13.11 NMAC – Rn, 16 NMAC 13.13.11, 1-25-2001; A, 04-15-2002]

16.13.13.12 VERIFICATIONS COPIES REQUIRED: The continuing education verifications must be attached to the renewal or reactivation form upon renewal.

[10-31-95; 16.13.13.12 NMAC – Rn, 16 NMAC 13.13.12, 1-25-2001]

16.13.13.13 CONTINUING EDUCATION AUDIT: The Board reserves the right to question an individual regarding continuing education submitted.

A. If audited, the licensee must provide a statement indicating how a continuing education activity has enhanced the licensee's scope of professional development as related to his/her functions as a nursing home administrator.

B. If the continuing education record is audited and the documents of verification of attendance are found to be falsified, incomplete, or if there is a question of accuracy, the licensee must submit other verification of attendance and/or correct the discrepancies before the last day of the renewal month to avoid the license expiring and thereby causing the additional late penalty fee for reactivation to be assessed. If the license is not renewed by the end of the renewal month, the licensee does not hold a valid license and shall not practice or be employed as a nursing home administrator in New Mexico until the expired license has been reactivated.

[2-24-88; 3-20-91; 2-13-94; 10-31-95; 16.13.13.13 NMAC – Rn, 16 NMAC 13.13.13, 1-25-2001]

HISTORY of 16.13.13 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NHA Manual #88-1, Administrative Rules and Regulations of the New Mexico Board of Nursing Home Administrators, filed 01-25-88.

History of Repealed Material: [Reserved]

Other History:

16 NMAC 13.13, Continuing Education Requirement, filed 10-13-95 replaced that relevant portion of NHA Manual #88-1, filed 01-25-88.

16 NMAC 13.13, Continuing Education Requirement, filed 10-13-95, renumbered and reformatted to 16.13.13 NMAC, Continuing Education Requirement, effective 1-25-2001.

PART 14 APPROVED CONTINUING EDUCATION

16.13.14.1 ISSUING AGENCY: New Mexico Nursing Home Administrators Board
[10-31-95; 16.13.14.1 NMAC – Rn, 16 NMAC 13.14.1, 1-25-2001; A, 04-15-2002]

16.13.14.2 SCOPE: The provisions in Part 14 of Chapter 13 apply to licensees.
[10-31-95; 16.13.14.2 NMAC – Rn, 16 NMAC 13.14.2, 1-25-2001]

16.13.14.3 STATUTORY AUTHORITY: Part 14 of Chapter 13 is promulgated pursuant to the Nursing Home Administrators Act, NMSA 1978 Section 61-13-9.B (1993 Repl. Pamp.).
[10-31-95 ; 16.13.14.3 NMAC – Rn, 16 NMAC 13.14.3, 1-25-2001]

16.13.14.4 DURATION: Permanent.
[10-31-95 ; 16.13.14.4 NMAC – Rn, 16 NMAC 13.14.4, 1-25-2001]

16.13.14.5 EFFECTIVE DATE: October 31, 1995.
[2-24-88...10-31-95; 16.13.14.5 NMAC – Rn, 16 NMAC 13.14.5, 1-25-2001]

16.13.14.6 OBJECTIVE: The objective of Part 14 of Chapter 13 is to set forth the philosophy behind the requirement for continuing education for nursing home administrators, and to provide information on the types of continuing education which will be automatically approved by the Board; which types require pre-approval; and the method of calculating hours for continuing education credit.
[10-31-95; 16.13.14.6 NMAC – Rn, 16 NMAC 13.14.6, 1-25-2001]

16.13.14.7 DEFINITIONS: [RESERVED]
[10-31-95; 16.13.14.7 NMAC – Rn, 16 NMAC 13.14.7, 1-25-2001]

16.13.14.8 CONTINUING EDUCATION PHILOSOPHY: Continuing education is one of the most important responsibilities of the nursing home administrator and is a life-long process. A diversity of administrative, management, and health-related learning activities is recommended to enhance the administrator's professional skills and development and for the administrator to stay abreast of changing requirements, laws, and trends in the nursing home field. The responsibility for continuing education rests with the individual.
[2-24-88; 10-31-95; 16.13.14.8 NMAC – Rn, 16 NMAC 13.14.8, 1-25-2001]

16.13.14.9 APPROVED CONTINUING EDUCATION: To be acceptable in New Mexico a continuing education activity must have been approved by a recognized approval body which has been approved by the Board, and must enhance the licensee's scope of professional development as related to his/her activities as a nursing home administrator. The participant must receive a certificate of attendance that validates the number of approved continuing education hours awarded.
[2-24-88; 10-31-95; 16.13.14.9 NMAC – Rn, 16 NMAC 13.14.9, 1-25-2001; A, 04-15-2002]

16.13.14.10 RECOGNIZED APPROVAL BODIES: The Board will recognize continuing education which meets the criteria in 16.13.14.8 and 16.13.14.9_NMAC and which has been sponsored or approved by the following sponsors or approval bodies:

- A. the New Mexico Nursing Home Administrators Board (NMNHAB);
- B. the National Continuing Education Review Service (NCERS);

- C. the New Mexico Health Care Association (NMHCA);
- D. the New Mexico Hospitals and Health Systems Association (NMHSA);
- E. the American College of Health Care Administrators (ACHCA);
- F. the American Association of Homes and Services for the Aging (AAHSA);
- G. the Association of University Programs in Health Care Administration (AUPHA);
- H. the American College of Health Care Executives (ACHCE); and
- I. other State licensing boards for nursing home administrators.

[2-24-88; 9-18-92; 10-31-95; 16.13.14.10 NMAC – Rn, 16 NMAC 13.14.10, 1-25-2001]

16.13.14.11 ACADEMIC CREDIT OR CONTINUING EDUCATION UNITS: The Board may approve related education taken in an academic setting. The licensee **must** provide **written** justification directly to the Board showing how the continuing education activity enhanced the licensee's scope of professional development as related to the licensee's activities as a nursing home administrator.

- A. Academic credit from institutions of higher learning;
 - (1) One (1) academic credit is equal to fifteen (15) contact hours.
 - (2) No more than twenty-four (24) **converted academic credit** hours may be carried over to the next renewal period.

B. Continuing Education Units (CEU's) or contact hours awarded by continuing education divisions within educational institutions of higher learning.

- (1) One (1) CEU is equal to ten (10) contact hours.
- (2) Six (6) contact hours converted from CEU's may be carried over to the next renewal period.

C. It is recommended that approval be sought prior to renewal in the event the continuing education activity is not approved by the Board.

[2-24-88; 9-18-92; 10-31-95; 16.13.14.11 NMAC – Rn, 16 NMAC 13.14.11, 1-25-2001; A, 04-15-2002]

16.13.14.12 APPROVAL FOR OTHER CONTINUING EDUCATION: The Board has an informal arrangement with the New Mexico Health Care Association (NMHCA) through which NMHCA approves other continuing education for individual licensees. Any continuing education activity which is not covered by 16.13.14.10 and 16.13.14.11 NMAC must be submitted to NMHCA for review and approval **before** it can be submitted to the Board toward the licensee's continuing education renewal requirement. NMHCA can be contacted for more information on this approval procedure.

[10-31-95; 16.13.14.12 NMAC – Rn, 16 NMAC 13.14.12, 1-25-2001]

HISTORY of 16.13.14 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NHA Manual #88-1, Administrative Rules and Regulations of the New Mexico Board of Nursing Home Administrators, filed 01-25-88.

History of Repealed Material: [Reserved]

Other History:

16 NMAC 13.14, Approved Continuing Education, filed 10-13-95 replaced that relevant portion of NHA Manual #88-1, filed 01-25-88.

16 NMAC 13.14, Approved Continuing Education, filed 10-13-95, renumbered and reformatted to 16.13.14 NMAC, Approved Continuing Education, effective 1-25-2001.

PART 15 LOST OR STOLEN LICENSE; NAME CHANGE; DUPLICATE LICENSE

16.13.15.1 ISSUING AGENCY: New Mexico Nursing Home Administrators Board
[10-31-95; 16.13.15.1 NMAC – Rn & A, 16 NMAC 13.15.1, 1-25-2001]

16.13.15.2 SCOPE: The provisions in Part 15 of Chapter 13 apply to licensees.

[10-13-95; 16.13.15.2 NMAC – Rn, 16 NMAC 13.15.2, 1-25-2001]

16.13.15.3 STATUTORY AUTHORITY: Part 15 of Chapter 13 is promulgated pursuant to the Nursing Home Administrators Act, NMSA 1978 Section 16-13-6 (1993 Repl. Pamph.).
[10-31-95; 16.13.15.3 NMAC – Rn, 16 NMAC 13.15.3, 1-25-2001]

16.13.15.4 DURATION: Permanent.
[10-31-95; 16.13.15.4 NMAC – Rn, 16 NMAC 13.15.4, 1-25-2001]

16.13.15.5 EFFECTIVE DATE: October 31, 1995.
[2-24-88...10-31-95; 16.13.15.5 NMAC – Rn, 16 NMAC 13.15.5, 1-25-2001]

16.13.15.6 OBJECTIVE: The objective of Part 15 of Chapter 13 is to set forth the requirements regarding procedures for reporting a lost or stolen license or a legal name change, and for obtaining a duplicate license.
[10-31-95; 16.13.15.6 NMAC – Rn, 16 NMAC 13.15.6, 1-25-2001]

16.13.15.7 DEFINITIONS: [RESERVED]
[10-31-95; 16.13.15.7 NMAC – Rn, 16 NMAC 13.15.7, 1-25-2001]

16.13.15.8 LOST OR STOLEN LICENSE: Licensees must give immediate **written** notification to the Board of a lost or stolen license.
[2-24-88; 10-31-95; 16.13.15.8 NMAC – Rn, 16 NMAC 13.15.8, 1-25-2001]

16.13.15.9 NAME CHANGE: Notification to the Board of a name change must be made in writing and must be accompanied by legal proof of the name change (e.g. copy of marriage certificate, divorce decree, etc.).
[2-24-88; 10-31-95; 16.13.15.9 NMAC – Rn, 16 NMAC 13.15.9, 1-25-2001]

16.13.15.10 DUPLICATE LICENSE: A request for a duplicate license must be made in writing and must be accompanied by the required duplicate license fee(s) as specified in Subsections K and L of 16.13.2.8 NMAC.

A. A request for a duplicate license with a legal name change must be accompanied by legal proof of the name change.

B. Individuals who do not wish to request a duplicate license **must** continue to use the name as it appears in the Board's records in conjunction with his/her NHA professional licensure until the requirements for name change have been met.

[2-24-88; 10-31-95; 16.13.15.10 NMAC – Rn & A, 16 NMAC 13.15.10, 1-25-2001]

HISTORY of 16.13.15 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NHA Manual #88-1, Administrative Rules and Regulations of the New Mexico Board of Nursing Home Administrators, filed 01-25-88.

History of Repealed Material: [Reserved]

Other History:

16 NMAC 13.15, Lost or Stolen License; Name Change; Duplicate License, filed 10-13-95 replaced that relevant portion of NHA Manual #88-1, filed 01-25-88.

16 NMAC 13.15, Lost or Stolen License; Name Change; Duplicate License, filed 10-13-95, renumbered and reformatted to 16.13.15 NMAC, Lost or Stolen License; Name Change; Duplicate License, effective 1-25-2001.

PART 17 DISCIPLINARY PROCEEDINGS

16.13.17.1 ISSUING AGENCY: New Mexico Nursing Home Administrators Board

[10-31-95; 16.13.17.1 NMAC - Rn, 16 NMAC 13.17.1, 1-25-2001; A, 04-15-2002]

16.13.17.2 SCOPE: The provisions in Part 17 of Chapter 13 may be of interest to anyone who may wish to file a complaint against a nursing home administrator licensed by the Board. Disciplinary proceedings may be initiated against licensees or applicants.

[10-31-95; 16.13.17.2 NMAC - Rn, 16 NMAC 13.17.2, 1-25-2001]

16.13.17.3 STATUTORY AUTHORITY: Part 17 of Chapter 13 is promulgated pursuant to the Nursing Home Administrators Act, NMSA 1978 Sections 61-13-6, 61-13-13, 61-13-14, and 61-13-15 (1993 Repl. Pamp.) and the Uniform Licensing Act, NMSA 1978 Sections 61-1-1 to 61-1-33 (1993 Repl. Pamp.); and the Uniform Licensing Act, Section 61-1-3.2, NMSA 1978 (2003 Repl. Pamp).

[10-31-95; 16.13.17.3 NMAC - Rn, 16 NMAC 13.17.3, 1-25-2001; A, 02-15-2004]

16.13.17.4 DURATION: Permanent.

[10-31-95; 16.13.17.4 NMAC - Rn, 16 NMAC 13.17.4, 1-25-2001]

16.13.17.5 EFFECTIVE DATE: October 31, 1995, unless a later date is cited at the end of a section.

[2-24-88...10-31-95; 11-29-97; 16.13.17.5 NMAC - Rn, 16 NMAC 13.17.5, 1-25-2001; A, 02-15-2004]

16.13.17.6 OBJECTIVE: The objective of Part 17 of Chapter 13 is to set forth the procedures for filing complaints against licensees and the procedures for the Board to follow in processing complaints.

[10-31-95; 16.13.17.6 NMAC - Rn, 16 NMAC 13.17.6, 1-25-2001]

16.13.17.7 DEFINITIONS:

A. “Complaint” means a complaint filed with the board against an applicant for licensure or against a licensee.

B. “Complainant” means the party who files a complaint against a licensee or against an applicant for licensure.

C. “Respondent” means the licensure applicant or the licensee who is the subject of the complaint filed with the board.

D. “Hearing” means the formal process whereby the respondent is afforded the opportunity to be heard by the board, or its designated hearing officer, before the board takes action which might result in disciplinary action against the respondent’s application for licensure or his or her license to practice nursing home administration.

E. “Violation” means a violation of the New Mexico Nursing Home Administrators Act or the rules and regulations duly adopted by the board.

F. “Notice of contemplated action or NCA” means the administrative process provided for by the Uniform Licensing Act whereby the respondent is notified of the board’s intent to take action based upon the violations of practice charged in the subject complaint, and whereby the respondent is afforded the opportunity for a hearing before the board.

G. “License revocation” means to prohibit the conduct authorized by the license.

H. “License suspension” means to prohibit, for a stated period of time, the conduct authorized by the license.

I. “License restricted subject to conditions” means to allow the conduct authorized by the license for a stated period of time, subject to conditions that are reasonably related to the grounds for disciplinary action.

J. “Pre-NCA agreement” means an agreement reached between the board and the respondent as an option to the formal NCA and hearing administrative hearing process.

K. “Mediation agreement” means an agreement reached through mediation between the board and the respondent as an option to the formal NCA and formal administrative hearing process.

[11-29-97; 16.13.17.7 NMAC - Rn, 16 NMAC 13.17.7, 1-25-2001; A, 02-15-2004]

16.13.17.8 COMPLAINTS: The disciplinary process against a board-licensure may be instituted by sworn complaint on a board-approved form by any person, including board members and board staff. Any hearing held pursuant to the complaint shall conform to the provisions of the Uniform Licensing Act.

[10-31-95; 11-29-97; 16.13.17.8 NMAC - Rn, 16 NMAC 13.17.8, 1-25-2001; A, 02-15-2004]

16.13.17.9 INVESTIGATION: Upon receipt of the sworn complaint against a board-licensure, the board will cause an investigation to be made into the subject complaint by the board's standards of practice committee. [10-31-95; 11-29-97; 16.13.17.9 NMAC - Rn, 16 NMAC 13.17.9, 1-25-2001; A, 02-15-2004]

16.13.17.10 STANDARDS OF PRACTICE COMMITTEE: The standards of practice committee is formed for the purpose of investigating disciplinary matters referred to it by the board. The board chairperson shall appoint a member or members of the board as a standards of practice committee.

A. The standards of practice committee shall review all documentation provided to it in reference to the subject complaint.

B. The standards of practice committee may provide the respondent with a copy of the complaint and allow a reasonable time for the respondent to respond to the allegations in the complaint.

C. The foregoing notwithstanding, the standards of practice committee will not be required to provide the respondent with a notice of the complaint filing, or a copy of the complaint, or any related investigatory evidence prior to the notice of contemplated action, if the committee determines that disclosure may impair, impede, or compromise the efficacy or integrity of the investigation.

D. The standards of practice committee may employ an investigator or other persons determined to be necessary in order to assist in the processing and investigation of the complaint.

E. The standards of practice committee will have independent authority to direct the board administrator to contract for the services of such persons without prior approval of the board after the board administrator has determined budgetary availability for such services.

F. Upon completion of its investigation, the standards of practice committee, with the assistance of board counsel may draw up pre-NCA settlement or mediation agreement proposal with the respondent as a means of resolving the complaint. The proposed agreement or any other recommendations by the standards of practice committee concerning proper disposition of the subject complaint shall be reported and presented by the committee to the board for further action.

G. Upon review and consideration, the board shall vote upon the proposed recommendations and either uphold, reverse, or modify the standards of practice committee's recommendations.

H. Standards of practice committee members who participate in the preparation of recommendations to the remaining board members shall not participate further in any actions initiated by the board against the licensee or licensees who are the subject of the complaint.

I. If the board determines that it lacks jurisdiction, or that there is insufficient evidence or cause to issue a notice of contemplated action, the board may vote to dismiss or close the complaint.

J. If the board determines that there is sufficient evidence or cause to issue a notice of contemplated action, it may vote to refer the complaint to the attorney general's office for possible prosecution in accordance with the provisions contained in the Uniform Licensing Act.

K. The board may take any other action with regard to a complaint which is within its authority and which is within the law, including referring the complaint to the attorney general and/or the district attorney for prosecution of persons alleged to be practicing without a valid license.

[10-31-95; A, 11-29-97; 16.13.17.10 NMAC - Rn, 16 NMAC 13.17.10, 1-25-2001; A, 02-15-2004]

16.13.17.11 PRIVATE CAUSE OF ACTION: Neither the action nor inaction by the Board on any complaint shall preclude the initiation of any private cause of action by the complainant.

[10-31-95; 16.13.17.11 NMAC - Rn, 16 NMAC 13.17.11, 1-25-2001]

16.13.17.12 DISCIPLINARY ACTION: In accordance with the Uniform Licensing Act, the Board has authority to impose penalties in disciplinary matters. The Uniform Licensing Act allows discipline in many forms including but not limited to fines, letters of reprimand, corrective action plans, suspension, and revocation of license.

A. Formal Letters of Reprimand: The Board shall have discretionary authority to issue formal letters of reprimand or warning instead of revocation or suspension. Issuance of formal letters of reprimand shall be subject to the provisions of the Uniform Licensing Act and shall be a matter of public record.

B. [RESERVED]

C. [RESERVED]

D. RESERVED]

E. Prehearing Motions: The Board may appoint a hearing officer to decide non-dispositive motions filed prior to a hearing.

F. Settlement Agreements: The Board may enter into a settlement agreement or mediation agreement with the Respondent as a means of resolving a complaint.

G. [RESERVED]

H. Costs of Disciplinary Proceedings: Licensees or license applicants shall bear all costs of disciplinary proceedings unless they are excused by the Board from paying all or part of the fees, or if they prevail at the hearing and an action specified in Section 61-1-3 of the Uniform Licensing Act is not taken by the Board.

I. Uniform Licensing Provision. In accordance with Section 61-1-7.G of the Uniform Act, a licensee who directly or through an agent intimidates, threatens, injures or takes any adverse action against a person for providing information to the Board shall be subject to disciplinary action.

J. License Returned to the Board: Any wall license, renewal license, or temporary permit issued by the Board must be returned to the Board subsequent to revocation or suspension. The item(s) listed must be returned in person or by certified mail no later than thirty (30) days after the suspension or revocation order by the Board.

K. Federal Fraud and Abuse Data Bank: With regard to the Federal Health Care Integrity and Protection Databank (or its successor databank), which was established by the enactment of the Federal Health Insurance Portability and Accountability Act of 1996:

(1) The Board may report to the databank disciplinary actions taken by the Board that do not contain an admission or finding of guilt or liability against applicants or licensees.

(2) The Board must report to the databank disciplinary actions taken by the Board that do contain an admission or finding of guilt or liability against applicants or licensees.

L. National Data Bank For Long Term Care Administrators: With regard to the national databank for long term care administrators established by the National Association of Boards of Examiners for Long Term Care Administrators (or its successor):

(1) The Board may report to the databank disciplinary actions taken by the Board that do not contain an admission or finding of guilt or liability against applicants or licensees.

(2) The Board must report to the databank disciplinary actions taken by the Board that do contain an admission or finding of guilt or liability against applicants or licensees.

[10-31-95; 11-29-97; 16.13.17.12 NMAC - Rn, 16 NMAC 13.17.12, 1-25-2001; A, 04-15-2002]

16.13.17.13 COMPLAINTS RELATED TO UNLICENSED PRACTICE: In accordance with the Uniform Licensing Act, Section 61-1-3.2, NMSA 1978 (2003 Repl. Pam), a person who is not licensed to engage in the practice of nursing home administration by the board is subject to disciplinary action and proceedings by the board if it is determined that he or she has been practicing nursing home administration in New Mexico without a valid New Mexico license.

A The board may impose a civil penalty in an amount not to exceed one thousand dollars (\$1,000) against a person who, without a license, engages in the practice of nursing home administration.

B. In addition, the board may assess the person engaging in the unlicensed practice of nursing home administration and/or the company, firm, or entity that employed the unlicensed person to act in the capacity of nursing home administrator, the administrative costs, including investigative costs and the costs of conducting a hearing.

C. Reports of unlicensed practice of nursing home administration may be reported for investigation to the board by phone, fax, mail, or e-mail.

[16.13.17.13 NMAC - N, 02-15-2004]

HISTORY of 16.13.17 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NHA Manual #88-1, Administrative Rules and Regulations of the New Mexico Board of Nursing Home Administrators, filed 01-25-88.

History of Repealed Material: [Reserved]

Other History:

16 NMAC 13.17, Disciplinary Proceedings, filed 10-13-95 replaced that relevant portion of NHA Manual #88-1, filed 01-25-88.

16 NMAC 13.17, Disciplinary Proceedings, filed 10-13-95, renumbered and reformatted to 16.13.17 NMAC, Disciplinary Proceedings, effective 1-25-2001.

PART 18 GROUND FOR DISCIPLINARY ACTION

16.13.18.1 ISSUING AGENCY: New Mexico Nursing Home Administrators Board.
[10-31-95; 16.13.18.1 NMAC - Rn, 16 NMAC 13.18.1, 1-25-2001; A, 02-15-2004]

16.13.18.2 SCOPE: The provisions in Part 18 of Chapter 13 apply to any person found to be in violation of the Nursing Home Administrators Act, NMSA 1978 'Section 61-13-1 through 61-13-17 or the Board's regulations (Chapter 13 of Title 16).
[10-31-95; 16.13.18.2 NMAC - Rn, 16 NMAC 13.18.2, 1-25-2001]

16.13.18.3 STATUTORY AUTHORITY: Part 18 of Chapter 13 is promulgated pursuant to the Nursing Home Administrators Act, NMSA 1978 Sections 61-13-6, 61-13-13, 61-13-14, and 61-13-15 (1993 Repl. Pamp.) and the Uniform Licensing Act, NMSA 1978 Section 61-1-1 through '61-1-33 (1993 Repl. Pamp.); and the Uniform Licensing Act, Section 61-1-3.2, NMSA 1978 (2003 Repl. Pamp).
[10-31-95; 16.13.18.3 NMAC - Rn, 16 NMAC 13.18.3, 1-25-2001; A, 02-15-2004]

16.13.18.4 DURATION: Permanent.
[10-31-95; 16.13.18.4 NMAC - Rn, 16 NMAC 13.18.4, 1-25-2001]

16.13.18.5 EFFECTIVE DATE: October 31, 1995.
[10-31-95; 16.13.18.5 NMAC - Rn, 16 NMAC 13.18.5, 1-25-2001]

16.13.18.6 OBJECTIVE: The objective of Part 18 of Chapter 13 is to set forth the grounds for disciplinary action that subject the licensee and non-licensee to disciplinary action by the board.
[10-31-95; 16.13.18.6 NMAC - Rn, 16 NMAC 13.18.6, 1-25-2001; A, 02-15-2004]

16.13.18.7 DEFINITIONS: [RESERVED]
[10-31-95; 16.13.18.7 NMAC - Rn, 16 NMAC 13.18.7, 1-25-2001]

16.13.18.8 DISCIPLINARY GUIDELINES: In accordance with the provisions contained within the Uniform Licensing Act, the board may take disciplinary action if the board determines the applicant or licensee has violated the Nursing Home Administrators Act or the board's regulations. The following shall subject the licensee to disciplinary action by the board.

A. Fraud or deceit in procuring or attempting to procure a license to practice as a nursing home administrator.

B. Knowingly practicing nursing home administration or using any designation with his/her name tending to imply, without a valid license, that he/she is a nursing home administrator; or knowingly aiding, assisting, procuring, advising, or encouraging any unlicensed person to practice nursing home administration or use any designation with his/her name tending to imply that he/she is a nursing home administrator without a valid license.

C. Conviction of a felony by a court of competent jurisdiction.

(1) This includes a conviction of an offense which, if committed in this state, would be deemed a felony under either state or federal law, without regard to its designation elsewhere.

(2) The term "conviction" shall include a finding or verdict of guilt, a plea of guilty, or a plea of nolo contendere in a criminal proceeding, regardless of whether the adjudication of guilt or sentence is withheld or not entered thereon or an appeal of the conviction has been sought.

D. Having been declared mentally incompetent by a regularly constituted authority within or outside this state.

(1) Any such adjudication shall be grounds for suspension of the license of any such person and shall prevent the reissuance or renewal of any license so suspended for as long as the adjudication of incompetence is in effect unless the board, upon a finding that the licensee is mentally competent, orders otherwise.

(2) Any applicant who has been so adjudged to be mentally incompetent shall not receive a license unless the board, upon a finding that the applicant is mentally competent, orders otherwise.

E. Having become unable to practice nursing home administration with reasonable skill and safety to residents by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of a physical condition.

(1) License suspension shall only be in effect during the period of alcohol or drug dependency or physical incapacitation.

(2) In enforcing the provisions in Subsections D and E of 16.13.18.8 NMAC, the board may, upon reasonable grounds, require a licensee or applicant to submit to a mental or physical examination by a licensed professional designated by the board.

(3) The cost of such evaluation shall be borne by the licensee or applicant. The results shall be admissible in the hearing before the board, notwithstanding any claim of privilege under a contrary rule or law or statute.

(4) If a licensee or applicant fails to submit to such an examination when properly directed to do so by the board, a show cause order may be issued from the board directing the licensee or applicant to show cause why he/she should not submit to the examination.

(5) The board may enter a final order upon proper notice, hearing, and proof of such refusal.

(6) Any licensee or applicant who is prohibited from practicing nursing home administration under Subsections D and E of 16.13.18.8 NMAC will, at reasonable intervals, be afforded an opportunity to demonstrate to the board that he/she can resume the practice of nursing home administration with reasonable skill and safety to residents.

(7) Applicants for licensure and renewal who have a history of alcohol or drug dependency shall be required to demonstrate to the satisfaction of the board that they have met all the following requirements:

(a) completed a treatment program for alcohol or chemical dependency;

(b) remained abstinent from alcohol or chemical dependence, except for drugs prescribed by a licensed physician for a legitimate medical condition, for a minimum of at least two (2) years; and

(c) maintained active and uninterrupted participation in a program of aftercare which provides for periodic monitoring and supervision by appropriately trained personnel, and which includes random and unannounced drug and/or alcohol screening of urine or blood.

F. Violation of any provision of the Nursing Home Administrators Act or any rules and regulations duly adopted by the board.

G. Gross incompetence.

H. Performance and conduct that substantially departs from, or fails to conform to, the minimal reasonable standards of acceptable and prevailing practice of nursing home administration, including but not limited to the following:

(1) conviction of a misdemeanor substantially relating to the practice of nursing home administration;

(2) found to be directly responsible for the neglect or abuse of nursing home resident(s) or the misappropriation of resident funds or property by a court of law, the board, an agency responsible for the certification and licensure of nursing homes, a state medicaid fraud and abuse unit, or any other duly recognized state agency;

(3) found to have falsified records related to residents or employees of a nursing home on the basis of race, religion, color, national origin, sex, age, or handicap in violation of federal or state laws;

(4) knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of nursing home administration, in the operation of a nursing home facility, or in any document connected therewith;

(5) revocation, suspension, or denial of a license by another state licensing board for any of the reasons which are also a violation of the Nursing Home Administrators Act, NMSA 1978 Sections 61-13-1 through 61-13-17;

(6) commission of a crime or act substantially related to the qualifications, functions, or duties of a nursing home administrator and which evidences unfitness to perform as a nursing home administrator in a manner consistent with protecting the public health, safety, and welfare; such crimes or acts shall include but not be limited to those involving the following: engaging in any unprofessional, immoral, unethical, deceptive or destructive

conduct or practice harmful to the public, which materially affects the fitness of the licensee or applicant to practice nursing home administration;

(7) commission of a crime involving moral corruption, without regard to conviction; the conviction of a crime involving moral corruption shall be evidence of the commission of such crime; as used in this paragraph, the term "conviction" shall have the meanings prescribed in Subsection C, Paragraph (2) of 16.13.18.8 NMAC; examples may include sexual harassment, resident abuse, breach of fiduciary duty, bribery, etc. [10-31-95; 16.13.18.8 NMAC - Rn, 16 NMAC 13.18.8, 1-25-2001; A, 02-15-2004]

16.13.18.9 GROSS INCOMPETENCE FURTHER DEFINED: In performing nursing home administrator functions, a licensee is under the legal duty to possess and to apply the knowledge, skill, and care that is ordinarily possessed and exercised by other licensed nursing home administrators and required by the generally accepted standards of the profession. The failure to possess or to apply to a substantial degree such knowledge, skill, and care constitutes gross incompetence.

A. Charges of gross incompetence may be based upon a single act of incompetence or upon a course of conduct or series of acts or omissions which extend over a period of time and which, taken as a whole, demonstrate incompetence. It shall not be necessary to show that actual harm resulted from the act or omission or series of acts or omissions so long as the conduct is of such a character that harm could have resulted to the resident or to the public from the act or omission or series of acts or omissions.

B. The following shall be deemed prima facie examples of activities which demonstrate that a licensee is unfit or incompetent to serve as a nursing home administrator by reason of negligence, habits, or other causes. The Board shall not be limited to this list in determining whether an act or acts constitute gross incompetence:

(1) Willfully acting in a manner inconsistent with the care for the welfare and the health and safety of the residents of the nursing facility in which he is the administrator, administrator/owner, administrator/manager, or administrator/corporate officer;

(2) Failure to make good faith attempts using administrative management methods, to assure that the nursing home in which he/she is the administrator, administrator/owner, administrator/manager, or administrator/corporate officer conforms with the provisions of pertinent statutes, codes, rules and regulations of the state licensing authority having jurisdiction over the operation and licensing of nursing homes;

(3) Failure to be responsible for planning, organizing, directing, and managing the operation of a nursing home in such a manner to ensure the safety, health, and welfare of the residents in the facility under his/her administration;

(4) Physical inability to serve as a nursing home administrator as evidenced by the statement of two licensed physicians; or

(5) Willfully permitting unauthorized disclosure of information relating to a resident in a nursing home under his/her administration.

[2-24-88; 10-31-95; 16.13.18.9 NMAC - Rn, 16 NMAC 13.18.9, 1-25-2001]

HISTORY of 16.13.18 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NHA Manual #88-1, Administrative Rules and Regulations of the New Mexico Board of Nursing Home Administrators, filed 01-25-88.

History of Repealed Material: [Reserved]

Other History:

16 NMAC 13.18, Grounds for Disciplinary Action, filed 10-13-95 replaced that relevant portion of NHA Manual #88-1, filed 01-25-88.

16 NMAC 13.18, Grounds for Disciplinary Action, filed 10-13-95, renumbered and reformatted to 16.13.18 NMAC, Grounds for Disciplinary Action, effective 1-25-2001.

PART 19 PARENTAL RESPONSIBILITY ACT COMPLIANCE

16.13.19.1 ISSUING AGENCY: New Mexico Nursing Home Administrators Board 725 St. Michael's Drive Santa Fe, New Mexico 87504 (505) 827-7170.
[10-31-95; 16.13.19.1 NMAC – Rn, 16 NMAC 13.19.1, 1-25-2001]

16.13.19.2 SCOPE: The provisions of Part 19 of Chapter 13 apply to all license applicants and licensees.
[10-31-95; 16.13.19.2 NMAC – Rn, 16 NMAC 13.19.2, 1-25-2001]

16.13.19.3 STATUTORY AUTHORITY: Part 19 of Chapter 13 is promulgated pursuant to the Parental Responsibility Act (Chapter 25, Laws of 1995).
[10-31-95; 16.13.19.3 NMAC – Rn, 16 NMAC 13.19.3, 1-25-2001]

16.13.19.4 DURATION: Permanent.
[10-31-95; 16.13.19.4 NMAC – Rn, 16 NMAC 13.19.4, 1-25-2001]

16.13.19.5 EFFECTIVE DATE: October 31, 1995.
[10-31-95; 16.13.19.5 NMAC – Rn, 16 NMAC 13.19.5, 1-25-2001]

16.13.19.6 OBJECTIVE: The objective of Part 19 of Chapter 13 is to set forth the regulations for enforcing the provisions of the Parental Responsibility Act.
[10-31-95; 16.13.19.6 NMAC – Rn, 16 NMAC 13.19.6, 1-25-2001]

16.13.19.7 DEFINITIONS: All terms defined in the Parental Responsibility Act shall have the same meanings in Part 19 of Chapter 13. As used in Part 19:

- A.** "HSD" means the New Mexico Human Services Department;
 - B.** "Statement of Compliance" means a certified statement from HSD stating that an applicant or licensee is in compliance with a judgment and order for support; and
 - C.** "Statement of Non-compliance" means a certified statement from HSD stating that an applicant or licensee is not in compliance with a judgment and an order for support.
- [10-31-95; 16.13.19.7 NMAC – Rn, 16 NMAC 13.19.7, 1-25-2001]

16.13.19.8 DISCIPLINARY ACTION: If an applicant or licensee is not in compliance with a judgment and order for support, the Board:

- A.** shall deny an application for a license;
- B.** shall deny the renewal of license; and
- C.** has grounds for suspension or revocation of the license.

[10-31-95; 16.13.19.8 NMAC – Rn, 16 NMAC 13.19.8, 1-25-2001]

16.13.19.9 CERTIFIED LIST: Upon receipt of HSD's certified list of obligors not in compliance with a judgment and order for support, the Board shall match the certified list against the current list of Board licensees and applicants.

- A.** Upon the later receipt of an application for license or renewal, the Board shall match the applicant against the current certified list.
 - B.** By the end of the month in which the certified list is received, the Board shall report to HSD the names of Board applicants and licensees who are on the certified list and the action the Board has taken in connection with such applicants and licensees.
- [10-31-95; 16.13.19.9 NMAC – Rn, 16 NMAC 13.19.9, 1-25-2001]

16.13.19.10 INITIAL ACTION: Upon determination that an applicant or licensee appears on the certified list, the Board shall:

- A.** commence a formal proceeding as set forth in 16.13.19.11 NMAC to take the appropriate action under 16.13.19.8 NMAC; (or
- B.** for current licensees only, informally notify the licensee that the licensee's name is on the certified list, and that the licensee must provide the Board with a subsequent Statement of Compliance from HSD by

the earlier of the application for license renewal or a specified date not to exceed thirty (30) days. If the licensee fails to provide this statement, the Board shall commence a formal proceeding as set forth in 16.13.19.11 NMAC. [10-31-95; 16.13.19.10 NMAC – Rn, 16 NMAC 13.19.10, 1-25-2001]

16.13.19.11 NOTICE OF CONTEMPLATED ACTION: Prior to taking any action specified in 16.13.19.8 NMAC, the Board shall serve upon the applicant or licensee a written notice stating that:

A. the Board has grounds to take such action, and that the Board shall take such action unless the licensee or applicant:

(1) mails a letter (certified mail return receipt requested) within twenty (20) days after service of the notice requesting a hearing; or

(2) provides the Board, within thirty (30) days of the date of the notice, with a Statement of Compliance from HSD; and

B. if the applicant or licensee disagrees with the determination of non-compliance, or wishes to come into compliance, the applicant or licensee should contact the HSD Child Support Enforcement Division. [10-31-95; 16.13.19.11 NMAC – Rn, 16 NMAC 13.19.11, 1-25-2001]

16.13.19.12 EVIDENCE AND PROOF: In any hearing under Part 19 of Chapter 13, relevant evidence is limited to the following:

A. A Statement of Non-compliance is conclusive evidence that requires the Board to take the appropriate action under 16.13.19.8 NMAC, unless:

B. The applicant or licensee provides the Board with a subsequent Statement of Compliance which shall preclude the Board from taking any action under Part 19 of Chapter 13. [10-18-95; 16.13.19.12 NMAC – Rn, 16 NMAC 13.19.12, 1-25-2001]

16.13.19.13 ORDER: When a disciplinary action is taken under Part 19 of Chapter 13 solely because the applicant or licensee is not in compliance with a judgment and order for support, the order shall state that the application or license shall be reinstated upon presentation of a subsequent Statement of Compliance. The Board may also include any other conditions necessary to comply with Board requirements for reapplications or reinstatement of lapsed licenses. [10-31-95; 16.13.19.13 NMAC – Rn, 16 NMAC 13.19.13, 1-25-2001]

16.13.19.14 PROCEDURES: Proceedings under Part 19 of Chapter 13 shall be governed by the Uniform Licensing Act, NMSA 1978 Sections 61-1-1 through 61-1-33 (1993 Repl. Pamp.). [10-31-95; 16.13.19.14 NMAC – Rn, 16 NMAC 13.19.14, 1-25-2001]

HISTORY of 16.13.19 NMAC:

Pre-NMAC History: None

History of Repealed Material: [Reserved]

Other History: 16 NMAC 13.19, Parental Responsibility Act Compliance, filed 10-13-95, renumbered and reformatted to 16.13.19 NMAC, Parental Responsibility Act Compliance, effective 1-25-2001.