

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES
PART 3 NON-LICENSED PSYCHOLOGIST/APPLICANT WITH AN INDEPENDENT MENTAL HEALTH LICENSE

16.22.3.1 ISSUING AGENCY: Regulation and Licensing Department, New Mexico State Board of Psychologist Examiners.

[16.22.3.1 NMAC - Rp, 16.22.3.1 NMAC, 11/15/06]

16.22.3.2 SCOPE: This part applies to the board, licensees, applicants for licensure, non-licensed employees or agents of licensees, and the general public.

[16.22.3.2 NMAC - Rp, 16.22.3.2 NMAC, 11/15/06]

16.22.3.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist act, NMSA 1978 Section 61-9-6, 61-9-8, 61-9-16. Part 3 is authorized by NMSA 1978 Section 10-15-1.C (1993 Repl.)

[16.22.3.3 NMAC - Rp, 16.22.3.3 NMAC, 11/15/06]

16.22.3.4 DURATION: Permanent.

[16.22.3.4 NMAC - Rp, 16.22.3.4 NMAC, 11/15/06]

16.22.3.5 EFFECTIVE DATE: November 15, 2006, unless a later date is cited at the end of a section.

[16.22.3.5 NMAC - Rp, 16.22.3.5 NMAC, 11/15/06]

16.22.3.6 OBJECTIVE: The objectives of this part are to:

A. set forth the limitations and conditions on the practice of psychology that apply to applicants while supervised in a course of study at a school or college, non-licensed persons who practice under supervision in order to satisfy the requirements for licensure, non-licensed staff or employees of licensees, and non-licensed persons licensed in another jurisdiction who perform court-ordered evaluations in New Mexico, and

B. establish the extent that licensees who supervise or sponsor non-licensed persons are responsible for the conduct of the non-licensed person.

[16.22.3.6 NMAC - Rp, 16.22.3.6 NMAC, 11/15/06]

16.22.3.7 DEFINITIONS: [RESERVED]

[Refer to 16.22.1.7 NMAC]

16.22.3.8 NON-LICENSED PERSONS

A. Limits of practice. Unless licensed by the board or exempted from licensure as provided in the act, no non-licensed person shall render, perform, or offer to render or perform psychological services except as provided under this part. The provisions of this part shall be strictly construed to ensure that the public is adequately protected from the practice of psychology by unqualified persons.

B. Required consent by patient or client. Except for normal office management, administrative, and secretarial support roles and functions, the patient or client shall be fully informed of the tasks and assignments performed by non-licensed persons. The supervisor shall obtain informed consent as appropriate when non-licensed persons will have access to confidential patient or client information or if other non-licensed persons are or will be performing or rendering psychological services under supervision.

C. Non-licensed employees or staff.

(1) A licensed psychologist may employ office staff or agents to perform nonprofessional office management, administrative, and secretarial duties and functions. The licensee shall make every effort to ensure that the office staff is trained in a protect patient or client confidential information. The psychologist shall be responsible for any breach of confidentiality by his employees or staff.

(2) A licensed psychologist may employ qualified non-licensed persons to administer and score psychological tests or gather historical data from patients or clients. The employee shall work under the psychologist's direct supervision. The psychologist is ultimately responsible for the accuracy and competent administration, scoring and interpretation of tests and data.

16.22.3.9 SUPERVISION OF NON LICENSED PERSONS

A. Responsibility of supervisors and violations. The supervisor shall not assist a non-licensed person in the performance of any activity that constitutes the practice of psychology except as allowed by this part. A supervisor shall have functional authority over and professional responsibility for the work of the non-licensed person. A supervisor who assists a non-licensed person in the practice of psychology in violation of this part, by acts of omission or commission, or who provides inadequate supervision over a non-licensed person is subject to disciplinary action. The grounds for disciplinary action may include, without limitation, aiding and abetting the practice of psychology by a non-licensed person; incompetent practice of psychology; willful or negligent violation of the act; allowing the supervisor's name or license to be used in connection with a non-licensee who performs psychological services outside of the area of the non-licensed person's training, experience, or competency; or abandonment of the patient or client.

B. Qualifications of supervisors. The supervisor shall be a licensed psychologist. The supervisor shall have training or experience in the specific area of practice being supervised. The supervisor may assign non-licensed persons to other qualified specialists under the supervisor's authority for specific skill training. The other specialist shall have a clearly established practice and shall possess demonstrable teaching skills. The supervisor shall limit the number of non-licensed persons under supervision, taking into account the requirements of the supervisor's principal work or practice and clinical responsibilities, to ensure that the supervision provided and the practice are consistent with professional standards. The supervisor shall not supervise an applicant who is a member of the supervisor's immediate or extended family, who has a financial interest in the supervisor's business or practice, or with whom the supervisor has a dual relationship.

C. Duties of the supervisor. The supervisor has the following duties to his patients or clients, the non-licensed person, and the public.

(1) The supervisor has ultimate responsibility to the patient or client for all professional psychological services rendered, whether rendered by the supervisor or the non-licensed person.

(a) The supervisor shall ensure that the patient or client knows the supervisory status of the non-licensed person and that consent is obtained.

(b) The supervisor shall ensure that the patient or client understands the possibility that a third-party payor may not reimburse for services rendered by the non-licensed person.

(c) The supervisor shall ensure that the patient or client is aware of the non-licensed person's qualifications and functions.

(d) The supervisor shall be available to patients or clients, shall be available to the non-licensed person for professional guidance and direction and intervention as needed, and shall be responsible for proper record-keeping and proper documentation in the patient's or client's case file, progress notes, or medical record.

(2) Unless the applicant holds an independent mental health license issued by the New Mexico counseling and therapy practice board or is an independent social worker licensed by the New Mexico board of social work examiners, the supervisor shall be responsible for billing for services and receipt or collection of payment. Bills, statements, invoices, or requests for payment in any form shall accurately and clearly identify the work performed and by whom.

(3) The supervisor maintains ultimate responsibility for and has an ongoing duty to actively supervise the non-licensed person's work performance and conduct to ensure adherence to the act and to board regulations.

(4) The supervisor shall ensure that a non-licensed person for whose work the supervisor is responsible does not engage in any activity, which, if engaged in by the supervisor, would constitute a violation of the act or the board regulations. The supervisor shall ensure, for example, that the non-licensed person:

(a) does not engage in a dual relationship;

(b) preserves the confidentiality of patient or client information;

(c) does not misrepresent his status, credentials, or qualifications to the patient or client or to others;

(d) does not mislead others or misrepresent his status to collect fees for services; and

(e) does not abuse drugs, substances, or alcohol to an extent or manner that endangers himself or another or impairs his ability to perform the duties required.

(5) The supervisor shall ensure that the non-licensed person works within his area of training, education, and competence.

(6) The supervisor shall adequately monitor the work of the non-licensed person to the extent necessary to protect the welfare of the patient or client. The supervisor shall ensure that the patient or client is properly evaluated and treated. The supervisor shall assess the skills and functioning of the non-licensed person on an ongoing basis to ensure that the non-licensed person is acting within his area of training, education, and competence. The supervisor shall prepare and document the plan of supervision, if applicable.

D. Students/applicants under supervision. Students/applicants enrolled in a graduate-level clinical counseling or school psychology training program who are rendering services under supervision and who have not applied for licensure are exempt from the act. Students/applicants shall not directly charge a patient or third-party payor a fee for the services performed. The supervisor shall accept only supervisory responsibility over students/applicants currently enrolled in a graduate-level program, who are under the auspices of a bona fide internship or externship program with a designated faculty advisor who shall be responsible for coordinating student/applicant services and training. Students/applicants shall not render any psychological services that are not supervised by a qualified supervisor as defined in this part.

[16.22.3.9 NMAC - Rp, 16.22.3.8 NMAC, 11/15/06]

16.22.3.10 LIMITED PERMISSION TO LICENSEES FROM OTHER JURISDICTIONS TO PERFORM COURT-ORDERED INDEPENDENT EXAMINATION.

A. A licensed or certified psychologist from another state, a territorial possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico (an out-of-state psychologist) may conduct a court-ordered independent psychological examination, which shall be limited to performing psychological assessments, tests, or evaluations, only in accordance with the provisions of this Subsection.

B. The out-of-state psychologist shall file with the board in writing a request for permission to conduct a court-ordered independent examination at least thirty (30) days in advance of providing any professional psychological services in New Mexico. The out-of-state psychologist shall attach a copy of the court order, shall attach a copy of a current resume or curriculum vitae, and shall identify a New Mexico licensed psychologist in good standing who agrees to sponsor the out-of-state psychologist. The out-of-state psychologist shall be a licensee in good standing in each jurisdiction in which the psychologist holds a license. A \$150.00 fee will be assessed for the processing of the request.

C. The board will grant limited permission to conduct a court-ordered independent examination only if the out-of-state psychologist acknowledges and agrees to the following limitations and conditions.

(1) The psychologist shall agree to perform the court-ordered examination in accordance with applicable provisions of the act and board regulations.

(2) The psychologist shall agree that the psychological services shall be limited to only services reasonable and necessary to satisfy the requirements of a specific court-ordered examination in an individual cause of action. In no event shall the board grant permission to the out-of state psychologist to render services for the purpose of preventing, eliminating, or treating symptomatic, maladaptive, or undesired behavior or for the purpose of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, or mental health.

(3) The psychologist shall agree to perform the services in New Mexico within the number of days specified by the board.

(4) The psychologist shall agree to claim no right, entitlement, or privilege to engage in the practice of psychology in the state of New Mexico except as allowed under the act and board regulations.

(5) The psychologist shall agree that the limited permission granted shall not be used or construed as a determination by the board that the psychologist qualifies for a license to practice psychology in New Mexico or that the psychologist is competent to perform the court-ordered examination.

(6) The board may impose other limitations or conditions as necessary to ensure compliance with the provisions of the act or board regulations.

(7) If the out-of-state psychologist violates the conditions imposed by the board or violates the act or board regulations, the board shall file an official complaint in any jurisdiction in which the psychologist is licensed or certified alleging that the psychologist has willfully or negligently violated the New Mexico professional psychologist act.

(8) The sponsoring psychologist shall agree in writing to sponsor an out-of-state psychologist as provided in this part. The sponsor shall certify that (a) the sponsor has made reasonable inquiry regarding the out-

of-state psychologist's qualifications and reputation; (b) to the sponsor's knowledge, the out-of-state psychologist is a licensee in good standing qualified by skill, education, and experience to conduct the court-ordered examination; and (c) the out-of-state psychologist has not used fraud or deception in requesting or obtaining permission from the board to conduct the court-ordered examination. The sponsor shall agree that willful or negligent certification or a violation by the out-of-state psychologist of the conditions imposed by the board or of the act or board regulations may be grounds for the board to take disciplinary action against the sponsor for aiding or abetting the practice of psychology by a person not licensed by the board.

[16.22.3.10 NMAC - Rp, 16.22.3.8 NMAC, 11/15/06]

HISTORY OF 16.22.3 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

SBPE 10, Status of Non-Certified Personnel, filed 11/15/79.

Rule 13, Status of Non-Certified Personnel, filed 11/1/83.

NMBPE Rule 9, Status of Non-Licensed Personnel, filed 12/28/89.

NMBPE Rule 9, Status of Non-Licensed Personnel, filed 2/7/90.

Rule No. 9, Status of Non-Licensed Personnel, filed 4/24/95

History of Repealed Material:

16 NMAC 22.1, General Provisions - Repealed 4/16/00.

16.22.3 NMAC, Non Licensed Psychologists/Applicants With An Independent Mental Health license- Repealed 11/15/06.