

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING**  
**CHAPTER 26 HEARING, SPEECH AND AUDIOLOGY PRACTITIONERS**  
**PART 7 GROUNDS FOR DISCIPLINARY ACTION**

**16.26.7.1 ISSUING AGENCY:** New Mexico Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Board.  
[11/7/98; 16.26.7.1 NMAC - Rn & A, 16 NMAC 26.7.1, 2/3/06]

**16.26.7.2 SCOPE:** The provisions of Part 7 apply to applicants or licensees under the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.  
[11/7/98; 16.26.7.2 NMAC - Rn, 16 NMAC 26.7.2, 2/3/06]

**16.26.7.3 STATUTORY AUTHORITY:** These rules are promulgated pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act, Sections 61-14B-1 to 61-14B-25 NMSA 1978 and the Uniform Licensing Act, Sections 61-1-1 to 61-1-33 NMSA 1978.  
[11/7/98; 16.26.7.3 NMAC - Rn, 16 NMAC 26.7.3, 2/3/06]

**16.26.7.4 DURATION:** Permanent  
[11/7/98; 16.26.7.4 NMAC - Rn, 16 NMAC 26.7.4, 2/3/06]

**16.26.7.5 EFFECTIVE DATE:** November 7, 1998, unless a later date is cited at the end of a section.  
[11/7/98; 16.26.7.5 NMAC - Rn & A, 16 NMAC 26.7.5, 2/3/06]

**16.26.7.6 OBJECTIVE:** The objective of Part 7 is to set forth the grounds for disciplinary action which may subject an applicant or licensee to disciplinary action by the board.  
[11/7/98; 16.26.7.6 NMAC - Rn, 16 NMAC 26.7.6, 2/3/06]

**16.26.7.7 DEFINITIONS:** [RESERVED]

**16.26.7.8 DISCIPLINARY GROUNDS:** In accordance with the provisions of the Uniform Licensing Act, the board may take disciplinary action if the board determines that the applicant or licensee has violated the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act or the boards regulations. The following shall subject the applicant or licensee to disciplinary action by the board.

**A.** Engaging in unprofessional conduct: Unprofessional conduct includes, but is not limited to, the following:

(1) violations of the principles of ethics or the ethical proscriptions as set forth in board regulations concerning its Code of Ethics (16.26.9 NMAC);

(2) committing a misdemeanor substantially related to the practice of speech language pathology, audiology or hearing aid dispensing or a misdemeanor involving moral turpitude; a certified copy of the record of conviction shall be conclusive evidence of conviction;

(3) for an audiologist or dispensing otorhinolaryngologist to accept a case referred from a hearing aid dispenser and not return the case to the referring professional unless the person seeking the hearing aid refuses to return to the referring professional or if the professional determines, using his best professional judgement, the return of the case would not be in the person's best medical or audiological interest.

**B.** Engaging in acts that constitute incompetence: Incompetence includes, but is not limited to, the following:

(1) failure to possess the knowledge, apply the skill or provide the care required by generally accepted standards of the professions of speech-language pathology, audiology or hearing aid dispensing; or

(2) violation of the principles of ethics II or the ethical proscriptions thereunder as set forth in board regulations relating to professional competence (Subsections D and E of 16.26.9.8 NMAC);

(3) a finding of incompetence may be based upon a single act or omission of competence 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.

**C.** Violation of the Controlled Substances Act (Sections 30-31-1 to 30-31-41 NMSA 1978). A certified copy of the record of conviction shall be conclusive evidence of conviction.

**D.** Aiding or abetting the practice by a person not licensed by the board. Aiding or abetting the practice of speech language pathology by a person not licensed by the board includes, but is not limited to, the following.

(1) A licensee shall not authorize or otherwise permit a speech language paraprofessional or assistant working under his or her supervision to diagnose, conduct diagnostic testing, interpret diagnostic testing, develop a plan of care or deviate from a plan of care.

(2) A licensee shall ensure that a speech language paraprofessional or assistant working under his or her supervision follows the plan of care.

(3) A licensee shall not authorize or otherwise permit an apprentice in speech-language pathology working under his or her supervision to conduct any of the duties set forth in Subsection E of 16.26.2.18 NMAC of the boards rules and shall ensure that the apprentice only engages in those duties authorized in Subsection D of 16.26.2.18 NMAC of the boards rules.

**E.** Failing to deliver to any person supplied with a hearing aid a receipt which contains the following information:

(1) licensee's license number and signature;

(2) the sponsor's/supervisor's signature approving of the fitting if the seller is a clinical fellow, graduate student or trainee;

(3) address of the licensee's regular place of business;

(4) make and model of the hearing aid;

(5) full financial terms of the sale;

(6) statement as to whether the hearing aid is new, used or reconditioned;

(7) statement that the purchaser was advised that the licensee was not a licensed physician and that the examination and recommendation was made as a hearing aid dispenser, audiologist, clinical fellow, trainee or graduate student and not as a medical diagnosis or prescription;

(8) terms of guarantee, if any.

[11/7/98, 11/27/99, 12/5/99; 16.26.7.8 NMAC - Rn & A, 16 NMAC 26.7.8, 2/3/06]

**HISTORY OF 16.26.7 NMAC: [RESERVED]**