

This is an amendment to 16.22.1 NMAC, Sections 7 and 11 effective on 03/21/09.

16.22.1.7 DEFINITIONS:

A. As used in these regulations, the following words and phrases have the following meanings, unless the context or intent clearly indicates a different meaning:

- (1) "Act" means the Professional Psychologist Act, Section 61-9-1 through 61-9-19 NMSA 1978.
- (2) "Administrator" or "board administrator" means the staff person assigned certain express or implied executive and administrative functions of the board as defined by board regulations or as required to carry out the provisions of the act.
- (3) "Adult" means all persons 18 years of age or older.
- (4) "Applicant" means a person who has completed all educational requirements of the eligibility requirements for licensure and has submitted a complete application to the board. An applicant is seeking approval of his or her application by the board to advance him or her to candidacy for licensure.
- (5) "Board" means the New Mexico state board of psychologist examiners.
- (6) "Board administrator" or "administrator" means the staff person assigned certain express or implied executive and administrative functions of the board as defined by board regulations or as required to carry out the provisions of the act.
- (7) "Board certified psychiatrist" means a physician licensed in New Mexico who has been certified by the American board of psychiatry and neurology in the specialty of psychiatry or the subspecialty of child and adolescent psychiatry.
- (8) "Board regulations" or "regulations" means any part adopted by the board pursuant to authority under the act and includes any superseding regulation.
- (9) "Candidate" is an applicant whose application has been approved by the board and is eligible to take the ~~on-line~~ online jurisprudence examination.
- (10) "Children/adolescents" mean all persons through 17 years of age (children 2-12 years; adolescents 13-17 years).
- (11) "Client" means a person, corporate entity, patient or organization that is a recipient of psychological services. A corporate entity or other organization is a client when the purpose of the professional contract is to provide services of benefit primarily to the organization rather than to the individuals. In the case of individuals with legal guardians, including minors and legally incompetent adults, the legal guardian shall be the client for decision-making purposes, except that the individual receiving services shall be the client for:
 - (a) issues directly affecting the physical or emotional safety of the individual, such as sexual or other exploitative dual relationships; and
 - (b) issues specifically reserved to the individual, and agreed to by the guardian prior to rendering of services, such as confidential communication in a therapy relationship;
 - (c) all matters specifically designated to individuals in the Mental Health Code and Children's Code, NMSA 1978.
- (12) "Collaborative relationship" means a cooperative working relationship between a conditional prescribing or prescribing psychologist and a health care practitioner in the provision of patient care, including cooperation in the management and delivery of physical and mental health care, to ensure optimal patient care.
- (13) "Confidential information" means information revealed by a patient or clients or otherwise obtained by a psychologist, as a result of a confidential relationship where there is reasonable expectation that the information is not to be disclosed by the psychologist without the informed written consent of the patient or client in accordance with the Public Health Act, Section 24-1-20 NMSA 1978. A confidential relationship, as used here, results from:
 - (a) the relationship between the patient(s) or client(s) and the psychologist, or
 - (b) the circumstances under which the information was revealed or obtained; when such information is revealed or obtained through the psychologist's interaction with an individual from within a client corporation or organization, and that interaction is the result of the professional contract between the psychologist and the client, the confidential relationship is between the psychologist and the client, not between the psychologist and an individual within the organization; in this instance, information obtained by the psychologist from the individual shall be available to the organization unless such information was obtained in a separate professional relationship with that individual and is therefore subject to confidentiality requirements in itself.
- (14) "Conditional prescribing psychologist" means a licensed psychologist who holds a valid conditional prescription certificate.

(15) “Conditional prescription certificate” means a document issued by the board to a licensed psychologist that permits the holder to prescribe psychotropic medication under the supervision of a licensed physician pursuant to the act.

(16) “Conflict of interest” means any situation or relationship that compromises or impairs, or appears to compromise or impair, the neutrality, independence or objectivity of a psychologist, psychologist associate, supervising physician, or board member, including relationships ~~and/or~~ or situations that arise from past or present familial, social, fiduciary, business, financial, health care provider-patient relationship, agency, or other personal relationship. Paying or receiving an appropriate fee for supervisory services is not a conflict of interest. Conflict of interest includes dual relationships as provided herein at 16.22.2.9 NMAC. If a conflict of interest or dual relationship arises during the performance of the professional duties of a psychologist, psychologist associate, supervising physician, or board member, he shall immediately report the conflict of interest or dual relationship to the board and shall cease that professional relationship.

(17) “Consultant” means a licensed psychologist who provides professional advice or opinion to a another licensed psychologist and who has no professional relationship with the patient or client, has no authority over the case, or has no responsibility for the services performed for the patient or client or the welfare of the patient or client.

(18) “Continuing professional education” means educational opportunities beyond doctoral education and initial entry level training as a psychologist or psychologist associate for which hourly credit is earned to:

(a) enable maintenance of competence, including cultural competence, by applicants and licensees;

(b) become aware of new developments; and

(c) provide responsible, quality services.

(19) “Controlled substance” means any drug, substance or immediate precursor enumerated in schedules I through V of the U.S. Drug Enforcement Administration, Controlled Substance Act and in Sections 30-31-6 thru 30-31-10 of the act.

(20) “Court order” means the written communication of a member of the judiciary, or other court magistrate or administrator, if such authority has been lawfully delegated to such magistrate or administrator that is under the authority of law.

(21) “Criminal Offender Employment Act”, Sections 28-2-1 thru 28-2-6 NMSA 1978 is the statutory provision regulating the relevance and weight to be given an applicant, candidate, or licensee’s criminal record, by the board, during the licensure or renewal process.

(22) “Cultural competence” means the ability and the will to respond to the unique needs of an individual patient that arise from the patient’s culture, and the ability to use aspects of the person’s culture as a resource or tool to assist with the intervention. Cultural competence includes being able to:

(a) recognize and respond to health related beliefs and cultural values;

(b) incorporate research about disease incidence and prevalence, and treatment efficacy; and

(c) know when to seek consultation about the patient’s culture.

(23) “Currently enrolled” means enrolled as a student in a college or university.

(24) “Custodian” means the board administrator.

(25) “Doctoral program in psychology” includes programs whose degree specify a doctoral degree in counseling, clinical or school psychology, as well as those programs the board deems to be equivalent to the requirements contained in the Professional Psychologist Act, using the standards and guidelines set forth by the APA or the ASPPB as a guide.

(26) “Drug or substance” means substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any respective supplement to those publications. It does not include devices or their components, parts or accessories.

(27) “Electronic transmission” means the sending of information through the telephone lines, cable or internet, as in e-mail or facsimile (fax).

(28) “Ethno-pharmacology” means the basic and clinical sciences of treatment of specific mental illness with ethnically or culturally appropriate drugs.

(29) “Filed with the board” means hand delivered or postal mail received during normal business hours by the board office in Santa Fe, New Mexico.

(30) “Geriatric” means all persons 65 years of age and over.

(31) “Good cause” means the inability to comply because of illness, undue hardship, or extenuating circumstances that are not willful and are beyond the control of the person asserting good cause. The person asserting good cause shall have the burden to demonstrate good cause.

(32) “Governmental Conduct Act” 10-16-1 thru 10-16-18 NMSA 1978 is the statutory provision which sets forth standards of conduct and ethical principles for public service.

(33) “Health care practitioner” means a licensed physician, osteopathic physician or nurse practitioner with independent, licensed prescribing privilege.

(34) “Inactive status” means a procedure of the board to affirm that a licensee is not engaged in active practice.

(35) “Initial application” means the initial application for licensure filed with the board by an applicant not previously or currently licensed in any jurisdiction.

(36) “Inspection of Public Records Act”, 14-2-1 thru 14-2-12 NMSA 1978 is the statutory provision acknowledging the fundamental right of access to public records afforded citizens and media in a democracy, and governing the administration of that right.

(37) “Licensed” means licensed or certified, registered, or any other term including temporary, provisional, emergency, unrestricted, active or inactive license or licensure, when such term identifies a person whose professional behavior is subject to regulation by the board by authority of the act.

(38) “Licensee” means a psychologist licensed pursuant to the provisions of the act and board regulations.

(39) “Licensee in good standing” means a licensed psychologist who is not the subject of a pending investigation, adjudicatory proceeding, or petition on appeal or review, or whose license is not restricted, suspended, or revoked in New Mexico or any other state or licensing jurisdiction.

(40) “Medical supervision” means direct oversight of the psychologist trainee’s psychopharmacological practice by a qualified supervising physician approved by the board. Supervision may be on-site or off-site as specified in the rule.

(41) “Medical supervisor” means a qualified supervising physician approved by the board.

(42) “Member of the family” means a parent, spouse, child, stepchild, grandchild, grandparent, sibling, uncle, aunt, niece or nephew, or other relative by blood, marriage, or legal process with whom the supervisor or physician supervisor has or has had a close familial relationship.

(43) “Member of the household” means residing within the same dwelling unit, either continuously or intermittently, regardless of whether fee or rent is paid or received.

(44) “National certification exam” means an examination that evaluates the psychopharmacological knowledge base of the applicant, is developed with the intention to administer it to psychologists seeking certificates or licenses to prescribe psychotropic medication in any state with prescriptive authority for psychologists, and meets standards acceptable to the board and the medical board.

(45) “New Mexico administrative code” or “NMAC”, Section 14-4-7.2 NMSA 1978 is the official compilation of current rules filed by state agencies in accordance with New Mexico statutes.

(46) “New Mexico statutes annotated 1978 or NMSA 1978” is the official compilation of state laws.

(47) “Non-licensed person” means a student, an applicant or postdoctoral person working under supervision in order to satisfy licensure requirements in psychology, and employees or staff of a licensed psychologist

(48) “Open Meetings Act”, 10-15 NMSA 1978 is the statutory provision requiring that public business be conducted in full public view; providing guidelines governing both public and closed meetings, and regulating the notice, agenda and minutes of such meetings.

(49) “Outdated test” means a test for which a revision has been available for three (3) or more years.

(50) “Out-of-state psychologist” means a psychologist licensed in another state, a territorial possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, the U.S. Virgin Islands, or a Canadian province who is in good standing in his or her licensing jurisdiction(s).

(51) “Patient” means a person who is treated, examined, assessed, or interviewed by a licensed psychologist or licensed psychologist associate or a non-licensed person working under supervision as provided in these regulations. In the case of minor patients or adult patients who are legally incompetent, the legal guardian shall represent the patient for decision-making purposes, except that the patient shall be directly consulted by the psychologist or psychologist associate for:

(a) issues directly affecting the physical or emotional safety of the individual, such as sexual or other exploitative dual relationships;

(b) issues specifically reserved to the individual, and agreed to by the guardian prior to rendering of services, such as confidential communication in a therapy relationship, and

(c) all matters specifically designated to individuals in the Mental Health and Developmental Disabilities Code (MHDDC), Section 43-1-19 NMSA 1978, and the Children's Code, Section 32A-1-1 thru 32A-1-20 NMSA 1978.

(52) "Physician" means an allopathic or osteopathic physician.

(53) "Practice of psychology" means the observation, description, evaluation, interpretation and modification of human behavior by the application of psychological principles, methods and procedures for the purpose of preventing or eliminating symptomatic, maladaptive or undesired behavior and of enhancing interpersonal relationships, work and ~~live~~ life adjustment, personal effectiveness, behavioral health and mental health, and further means the rendering of such psychological services to individuals, families or groups, regardless of whether payment is received for services rendered. The practice of psychology includes psychological testing or neuropsychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, psychopharmacotherapy, hypnosis, biofeedback, behavior analysis and therapy; diagnosis and treatment of any mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct and the psychological aspects of physical illness, accident, injury and disability, and psycho-educational evaluation, therapy, remediation and consultation.

(54) "Practicum" means a period of supervised clinical training and practice in which specific scientific and clinical techniques and diagnoses are learned.

(55) "Prescribing applicant" means a licensed psychologist who has made application to the board for a conditional prescribing or prescribing certificate.

(56) "Prescribing psychologist" means a licensed psychologist who holds a valid prescription certificate.

(57) "Prescription" means an order given individually for the person for whom prescribed, either directly from the prescriber to the pharmacist or indirectly by means of a written order signed by the prescriber, and bearing the name and address of the prescriber, his license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue. No person other than a practitioner shall prescribe or write a prescription.

(58) "Prescription certificate" means a document issued by the board to a licensed psychologist that permits the holder to prescribe psychotropic medication pursuant to the act.

(59) "Primary treating health care practitioner" means the health care practitioner who is directly responsible for treating a specific illness or condition of a patient. The primary treating health care practitioner may be a primary care practitioner, or may be a medical specialist.

(60) "Professional relationship" means a mutually agreed-upon relationship between a psychologist and a patient(s) or client(s) for the purpose of the patient(s) or client(s) obtaining the psychologist's professional services.

(61) "Professional service" means all actions of the psychologist in the context of a professional relationship with a client or patient.

(62) "Properly made application" means a completed form for a psychologist or psychologist associate license filed with the board that is complete in all particulars and appears on its face to satisfy all minimum age, educational, supervision, payment, and other requirements except examination requirements for licensure as required by the act and these regulations.

(63) "Psychologist" means a person who engages in the practice of psychology or holds himself or herself out to the public by any title or description of services representing himself or herself as a psychologist, which incorporates the words "psychological", "psychologist", "psychology", or when a person ~~deseries~~ describes himself or herself as above and, under such title or description offers to render or renders services involving the application of principles, methods and procedures of the science and profession of psychology to persons for compensation or other personal gain.

(64) "Psychopharmacology" [aka RXP] means the basic and clinical science of drugs used to treat mental illnesses.

(65) "Psychopharmacotherapy" means the application of pharmacotherapeutics to psychological problems. A key principle is the assessment of a patient's history that helps establish the appropriate role of drug therapy. Essential steps include evaluation, physical assessment, recognizing the disorder, adequate understanding of efficacy safety, pharmaco-kinetics, pharmaco-dynamics and application in the clinical setting.

(66) "Psychotropic medication" means a controlled substance or dangerous drug that may not be dispensed or administered without a prescription, whose indication for use has been approved by the federal food

and drug administration for the treatment of mental disorders and is listed as a psychotherapeutic agent in drug facts and comparisons or in the American hospital formulary service.

(67) “Public Health Act”, 24-1-1 thru 24-1-30 NMSA 1978, governs the confidentiality of patient or client record.

(68) “Restricted license” means a psychologist who holds a temporary, provisional, emergency or inactive license.

(69) “Rule” means board regulations.

(70) “Socio-cultural” means aspects of mental illness related to social and cultural mores and traditions of varied social and cultural groups.

(71) “School” means a college or a university or other institution of higher education that is regionally accredited and that offers a full-time graduate course of study in psychology as defined by rule of the board or that is approved the American psychological association.

(72) “Sponsoring psychologist” means a licensed psychologist in New Mexico who agrees to provide adequate oversight of an out-of-state psychologist ordered by a court to perform an independent examination; the sponsoring psychologist remains responsible for the professional conduct of the out-of-state psychologist and the welfare of the patient or client.

(73) “State Rules Act”, Sections 14-4-1 thru 14-4-5 NMSA 1978, is the statutory provision that ensures that state agencies file with the state records center and archives all rules and regulations including amendments or repeals.

(74) “Statute” means a law that governs conduct within its scope. A bill passed by the legislature becomes a statute; and “statutory authority” means the boundaries of the board’s lawful responsibility as laid out by the statute that created it.

(75) “Substantial compliance” means sufficient compliance with the statutes or rules so as to carry out the intent for which the statutes or rules were adopted and in a manner that accomplishes the reasonable objectives of the statutes or rules.

(76) “Supervisee” means any person who functions under the authority of a licensed psychologist to provide psychological services as provided in the act or board regulations.

(77) “Supervisor” means a licensed psychologist who agrees to provide adequate supervision over a student, applicant, employee, staff, or other non-licensed person and who remains ultimately responsible for the professional conduct of the non-licensed person and the welfare of the patient.

(78) “Supervisory plan” means a written document signed by an applicant for psychology license or a conditional prescribing certificate and the supervisor of the applicant that describes the nature of the supervisory relationship including but not limited to the number of hours of supervision, population served, and credentials of supervisor, and is presented to the board for approval.

(79) “Uniform Licensing Act”, Section 61-1-1 thru 61-1-33 NMSA 1978 is the statutory provision that governs the major duties of the board in areas of:

(a) procedures which must be followed to accord due process to applicants for licensure and to licensees if the board takes action against the licensee for acts of misconduct that would adversely affect public health, safety and welfare, and

(b) rule making procedures that the board shall follow in adopting valid regulations affecting psychologists and psychologist associates.

(80) “Unrestricted license” means a license in psychology with full privileges and responsibilities as described in these regulations but is renewed annually or biennially. It does not have a limitation of a provisional license, temporary license, emergency license or inactive license as described herein.

B. Definitions in Subsection B pertain to conditional prescribing and prescribing psychologists only.

(1) “Adults” mean all persons over 18 years of age through 65 years of age.

(2) “Board” means the New Mexico state board of psychologist examiners.

(3) “Children/adolescents” mean all persons through 18 years of age (children, 2-12 years; adolescents 12-18 years).

(4) “Collaborative relationship” means a cooperative working relationship between a conditional prescribing or prescribing psychologist and a health care practitioner in the provision of patient care, including cooperation in the management and delivery of physical and mental health care, to ensure optimal patient care.

(5) “Conditional prescribing psychologist” means a licensed psychologist who holds a valid conditional prescription certificate.

(6) “Conditional prescription certificate” means a document issued by the board to a licensed psychologist that permits the holder to prescribe psychotropic medication under the supervision of a licensed physician pursuant to the Professional Psychologist Act.

(7) “Conflict of interest” means past or present familial, social, fiduciary, business, financial, health care provider-patient relationship, agency, or other personal relationship that impairs or compromises or appears to impair or compromise the supervisor’s neutrality, independence or objectivity. Paying or receiving an appropriate fee for supervisory services is not a conflict of interest. Conflict of interest includes dual relationship. If a conflict of interest or dual relationship arises during the supervision, the supervisor shall immediately report the conflict of interest or dual relationship to the board and shall cease supervision of the supervised psychologist.

(8) “Controlled substance” means any drug, substance or immediate precursor enumerated in schedules I through V of the Controlled Substance Act.

(9) “Drug” or “substance” means substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any respective supplement to those publications. It does not include devices or their components, parts or accessories.

(10) “Ethno-pharmacology” means the basic and clinical sciences of treatment of specific mental illness with ethnically or culturally appropriate drugs.

(11) “Geriatric” means all persons over 65 years of age;

(12) “Health care practitioner” means a licensed physician, osteopathic physician or nurse practitioner with independent, licensed prescribing privilege;

(13) “Log” means a written record of patient examination and treatment that contains elements specified in the regulations and which is required as a basis for evaluation of the applicant for licensure.

(14) “Member of the family” means a parent, spouse, child, stepchild, grandchild, grandparent, sibling, uncle, aunt, niece or nephew, or other relative by blood, marriage, or legal process with whom the supervisor or physician supervisor has or has had a close familial relationship.

(15) “Member of the household” means residing within the same dwelling unit, either continuously or intermittently, regardless of whether fee or rent is paid or received.

(16) “National certification exam” means an examination that evaluates the psychopharmacological knowledge base of the applicant, is developed with the intention to administer it to psychologists seeking certificates or licenses to prescribe psychotropic medication in any state with prescriptive authority for psychologists, and meets standards acceptable to the board and the medical board.

(17) “Physician” means an allopathic or osteopathic physician.

(18) “Practice of psychology” means the observation, description, evaluation, interpretation and modification of human behavior by the application of psychological principles, methods and procedures for the purpose of preventing or eliminating symptomatic, maladaptive or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health and mental health, and further means the rendering of such psychological services to individuals, families or groups regardless of whether payment is received for services rendered. The practice of psychology includes psychological testing or neuropsychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, behavior analysis and therapy; diagnosis and treatment of any mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct and the psychological aspects of physical illness, accident, injury and disability; and psycho-educational evaluation, therapy, remediation and consultation.

(19) “Practicum” means a period of supervised clinical training and practice in which specific scientific and clinical techniques and diagnoses are learned.

(20) “Prescribing psychologist” means a licensed psychologist who holds a valid prescription certificate.

(21) “Prescription” means an order given individually for the person for whom prescribed, either directly from the prescriber to the pharmacist or indirectly by means of a written order signed by the prescriber, and bearing the name and address of the prescriber, his license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue. No person other than a practitioner shall prescribe or write a prescription.

(22) “Prescription certificate” means a document issued by the board to a licensed psychologist that permits the holder to prescribe psychotropic medication pursuant to the Professional Psychologist Act.

(23) "Primary treating health care practitioner" means the health care practitioner who is directly responsible for treating a specific illness or condition of a patient. The primary treating health care practitioner may be a primary care practitioner, or may be a medical specialist.

(24) "Psychologist" means a person who engages in the practice of psychology or holds himself out to the public by any title or description of services representing himself as a psychologist, which incorporates the words "psychological", "psychologist", "psychology", or when a person describes himself as above and, under such title or description, offers to render or renders services involving the application of principles, methods and procedures of the science and profession of psychology to persons for compensation or other personal gain.

(25) "Psychopharmacology" means the basic and clinical sciences of drugs used to treat mental illnesses.

(26) "Psychopharmacotherapy" means the application of pharmaco-therapeutics to psychological problems. A key principle is the assessment of a patient's history that helps establish the appropriate role of drug therapy. Essential steps include recognition of the disorder, adequate understanding of efficacy safety, pharmacokinetics, pharmaco-dynamics and application in the clinical setting.

(27) "Psychotropic medication" means a controlled substance or dangerous drug that may not be dispensed or administered without a prescription, whose indication for use has been approved by the federal food and drug administration for the treatment of mental disorders and is listed as a psychotherapeutic agent in drug facts and comparisons or in the American hospital formulary service.

(28) "School" means a college or a university or other institution of higher education that is regionally accredited and that offers a full-time graduate course of study in psychology as defined by rule of the board or that is approved by the American psychological association.

(29) "Socio-cultural" means aspects of mental illness related to social and cultural mores and traditions of varied social and cultural groups.

(30) "Supervision" means direct oversight of the psychologist trainee's psychopharmacological practice by qualified supervising physician approved by the board. Supervision may be on or off site as specified in the rule.

(31) "Applicant" means a licensed psychologist who has made application to the board for a conditional prescribing or prescribing certificate.

(32) "Supervisor" means a qualified supervising physician approved by the board.
[16.22.1.7 NMAC - Rp, 16.22.1.7 NMAC, 11/15/06; A, 03/21/09]

16.22.1.11 BOARD RECORDS:

A. Inspection of Public Records Act (IPRA). Public records shall be available for inspection in accordance with the provisions of the IPRA, Section 14-2-1 through 14-2-12 NMSA 1978 and Section 61-9-5.1 NMSA 1978.

B. Copying charges. The custodian shall charge a copying charge of [~~\$10.00 for the first ten (10) normal 8.5 x 11 inch paper copies and fifty cents (\$0.50) per page thereafter. The custodian shall charge \$3.00 per page for copying under/over sized documents or papers.~~] \$.25 per page or the regulation and licensing department standard IPRA fee, whichever is higher.

C. Creating records. The board shall not be required to create any document or compile data for an individual or private entity.

D. Reasonable access. Consistent with the IPRA and taking into account the available staff, space, and the needs of other legitimate public business, the custodian may determine the reasonable time, place, and conditions for access to public records.

E. Removal. Public records shall not be removed from the board office except by board members, board staff, or agents of the board for official public business.

[16.22.1.11 NMAC - Rp, 16.22.1.10 NMAC, 11/15/06; A, 03/21/09]