

This is an amendment to 16.22.24 NMAC, Sections 9 and 10, effective on 03/21/09.

**16.22.24.9 CONDITIONS OF PRACTICE; MALPRACTICE INSURANCE**

**A.** The conditional prescribing psychologist shall maintain malpractice insurance covering claims for personal injury arising out of his or her performance of professional services and claims arising out of his or her act, errors or omissions in providing professional services, including prescribing psychotropic medication. Such malpractice insurance coverage shall be no less than one (1) million dollars per occurrence with an aggregate limit of three (3) million dollars.

**B.** The conditional prescribing psychologist shall submit to the board the declaration page of his or her malpractice insurance policy, when instituted, and thereafter on the policy renewal date, as proof of this required insurance upon making application for the conditional prescription certificate, and proof that the policy covers the prescribing [pff] of psychotropic drugs.

[16.22.24.9 NMAC - Rp, 16.22.24.8 NMAC, 11/15/06; A, 03/21/09]

**16.22.24.10 TWO YEAR SUPERVISED PRACTICE**

**A.** The conditional prescribing psychologist shall be supervised by a licensed physician(s) knowledgeable of the administration of psychotropic medication. If more than one supervisor is selected, one supervisor shall be designated the primary supervising physician.

**B.** The board shall approve the supervisory plan before the conditional prescription certificate is issued. The proposed supervisory plan shall include the information contained in 16.22.24 NMAC, and shall be signed by the primary supervising physician.

**C.** After the board approves the supervisory plan, the conditional prescribing psychologist shall within thirty (30) days submit to the New Mexico medical board the name, address and phone number of the conditional prescribing psychologist and the name(s), address(s) and phone number(s) of the primary supervising physician and secondary supervising physicians, if any. During the period of supervised practice, the conditional prescribing psychologist shall provide to the New Mexico medical board the name(s), address(s) and phone number(s) of any supervising physician or physician serving as a substitute or replacement for primary or secondary supervisor(s).

**D.** Each supervisor shall have clinical expertise or training with the patient population that the psychologist with a conditional prescription certificate is evaluating and treating.

**E.** During the initial contact between the patient or the patient's legal guardian, if any, and the conditional prescribing psychologist, the patient or the patient's legal guardian shall be informed that the psychologist has received specialized training in the prescription of psychotropic medication, that the psychologist is transitioning to independent psychopharmacological practice, and that the psychologist is practicing under supervision with respect to the prescribing of psychotropic medication. The name and role of the supervisor shall be provided to the patient or the patient's legal guardian and informed consent and appropriate releases shall be obtained. The conditional prescribing psychologist shall provide additional information requested by the patient or the patient's legal guardian concerning the psychologist's education, training, and experience.

**F.** Supervision by the primary supervising physician shall be provided on a one-to-one basis for at least four hours a month and should total at least forty-six (46) hours of one-to-one supervision per year, unless altered, in accordance with Subsection K of 16.22.24.10 NMAC of these regulations.

**G.** Each supervising physician is responsible to review only the cases he or she is supervising. The supervising physician at all times shall have access to and shall review records relating to the treatment of patients under his or her supervision. The supervising physician may require face-to-face consultation(s) with the conditional prescribing psychologist.

**H.** If there is more than one supervisor, each supervisor shall inform the other supervisor of any concerns about a conditional prescribing psychologist whom he or she is supervising.

**I.** The primary supervising physician shall contact any secondary supervisor(s) at least every six (6) months to obtain written or verbal progress reports concerning how the conditional prescribing psychologist is performing.

**J.** One-to-one supervision must be provided either face-to-face, telephonically, or by tele-video live communication.

**K.** At any time during the two-year conditional prescribing periods the supervising physician, after consultation with the conditional prescribing psychologist, may amend the supervisory plan, to increase or decrease the hours of supervision. The board shall approve amendments to the supervisory plan set forth in Subsection M below.

**L.** At any time during the two-year conditional prescribing period a primary supervising physician shall not supervise more than three (3) conditional prescribing psychologists.

**M.** The supervisory plan described in Paragraph (5) of Subsection B of 16.22.24.8 NMAC shall include the following information and shall be signed by the primary supervising physician:

- (1) name of the applicant;
- (2) name, address, license number, and area of specialization of the primary supervising physician and the secondary supervisor(s), if any;
- (3) beginning and ending dates of the ~~[two-year]~~ two-year supervised practice covered by the plan;
- (4) number of one-on-one supervisory hours per month and by whom;
- (5) setting(s) where supervision will occur and with whom;
- (6) duties and clinical responsibilities of the conditional prescribing psychologist;
- (7) location(s) where supervision will occur and with whom;
- (8) areas in which the primary and secondary supervisor(s), if any, have specialized skills to render competent supervision;
- (9) number of psychologists with conditional prescription certificates that the primary supervising physician will supervise during this time period;
- (10) the manner in which the conditional prescribing psychologist will be represented to the public including, all written communications and public announcements;
- (11) any direct or indirect financial agreements between or among the conditional prescribing psychologist and the primary and secondary supervisor(s), if any;
- (12) other information necessary to clarify the nature and scope of supervision; and
- (13) a statement specifying the manner in which supervision and clinical and professional responsibility will be provided during the supervisor's absence (during vacations or unexpected events that require the supervisor to be absent for any period of time).

**N.** The board or its designee shall notify the applicant in writing within sixty (60) days of application date, whether the application and the proposed supervisory plan are accepted or rejected. The board or its designee shall notify a conditional prescribing psychologist within thirty (30) days whether a proposed amendment to an approved supervisory plan is accepted or rejected. If rejected, the notice shall state the reasons for rejection.

**O.** Each supervising physician shall maintain a supervision log containing the dates, duration, and place or method of supervision, the same identification code for patients as used by the psychologist with a conditional prescribing certificate in the summary reports, and a brief description of the content of supervision. The log shall be submitted to the board upon request.

**P.** The primary supervising physician shall also maintain a log of the contacts with the secondary supervisor(s) that includes the dates of contact, and a brief description of the outcome of this contact, including a statement stating whether the conditional prescribing psychologist is progressing satisfactorily.

**Q.** The supervisor shall review the results of laboratory tests as appropriate and shall be skilled and experienced in such interpretation.

**R.** The supervising physician(s) shall hold an active unrestricted license in good standing and appropriate drug enforcement administration certificate and shall be experienced and skilled in the prescription of psychopharmacological drugs.

**S.** The conditional prescribing psychologist shall see a minimum of fifty (50) separate patients within the two-year period who are seen for the purpose of evaluation and treatment with psychotropic medication. The duration of the two-year supervisory period shall not be accelerated or reduced.

**T.** At the end of the two-year period, the primary supervising physician shall provide an affidavit on a form provided by the board certifying that:

- (1) the supervising physician has not received any financial payments from the applicant except appropriate fees for supervisory services, the supervising physician is not a member of the applicant's family or household, the supervising physician is not in a prohibited dual relationship with the applicant or a member of the applicant's family or household, and that the supervising physician has not had an interest that conflicts with the supervising physician's duties as supervisor;
- (2) each supervising physician discussed with the psychologist the charts and records of patients seen by the psychologist under that physician's supervision during the two-year period or any extension; and
- (3) the psychologist has successfully completed two years of evaluating for or prescribing psychotropic medication to at least 50 patients.

**U.** The primary supervising physician in consultation with any secondary supervisor shall evaluate and describe any deficiencies at the end of the two-year period. In the event of documented deficiencies, the

primary supervising physician(s) shall specify in writing the areas in need of remediation and the process and procedures by which these areas are to be remediated.

**V.** The supervisory period and the conditional prescriptive certificate may be extended with approval of the board if the conditional prescribing psychologist does not successfully complete the two-year conditional period of supervision. A supervisory plan shall be submitted to the board for the proposed extended period of practice under supervision. The conditional prescribing psychologist shall continue to maintain malpractice insurance.

**W.** At the end of the extended two-year period, the primary supervising physician shall provide to the board an affidavit on a form provided by the board certifying: the method by which the supervisor(s) determined that the conditional prescribing psychologist obtained the competencies necessary to prescribe psychotropic medication, supported by a written evaluation addressing areas of remediation.

[16.22.24.10 NMAC - Rp, 16.22.24.8 NMAC, 11/15/06; A, 03/21/09]