

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 24 ~~[ANIMAL]~~ SHELTERING PROVIDERS
PART 1 GENERAL PROVISIONS

16.24.1.1 ISSUING AGENCY: ~~[Regulation and Licensing Department, Animal Sheltering Board,]~~
New Mexico Board of Veterinary Medicine.

[16.24.1.1 NMAC – N, 7/1/18]

16.24.1.2 SCOPE: This part applies to applicants, licensees, certificate holders and persons or agencies within the jurisdiction of the board.

[16.24.1.2 NMAC – N, 7/1/18]

16.24.1.3 STATUTORY AUTHORITY: ~~[These rules are promulgated pursuant to the]~~ ~~[Animal Sheltering Act, Subsections B of Sections 77-1-2, 77-1-3, 77-1-4, 77-1-5, 77-1-6, 77-1-7, 77-1-8, 77-1-9, 77-1-10 and 77-1-11]~~ Subsection F of Section 61-14-5 NMSA 1978.

[16.24.1.3 NMAC – N, 7/1/18]

16.24.1.4 DURATION: Permanent.

[16.24.1.4 NMAC – N, 7/1/18]

16.24.1.5 EFFECTIVE DATE: ~~[2/5/2014]~~ July 1, 2018 unless a later date is cited at the end of a section.

[16.24.1.5 NMAC – N, 7/1/18]

16.24.1.6 OBJECTIVE: To define terms relevant to animal sheltering, euthanasia, circumstances under which a license is required, persons exempted from licensing, custody and alteration of a license, transferability, display of license, notification of changes, local regulations, and professional ethical standards, and to set forth standards for the operation, meeting and record keeping requirements of the board.

[16.24.1.6 NMAC – N, 7/1/18]

16.24.1.7 DEFINITIONS:

A. Words starting with the letter A:

(1) “Act” means the ~~[Animal Sheltering Act]~~ Veterinary Practice Act,
Subsections B of Sections 77-1-1 through 77-1-12 NMSA 1978.

(2) “Animal” means any animal, except humans, not defined as "livestock" in
Subsection T of this section.

(3) “Animal shelter” means:

(a) a county or municipal facility that provides shelter to animals on a
regular basis~~[, including a dog pound]~~; and

(b) a private humane society or a private animal shelter that temporarily
houses stray, unwanted or injured animals through administrative or contractual arrangements with a local
government agency; and

(c) does not include a municipal zoological park.

B. Words starting with the letter B:

(1) “Board” means the ~~[animal sheltering board]~~ Board of Veterinary
Medicine.

C. Words starting with the letter C:

(1) “Companion animal” means any vertebrates commonly kept as domestic pets,
excluding man, and those under the jurisdiction of the New Mexico department of game and fish and those under the
jurisdiction of the New Mexico livestock board.

(2) “Consulting pharmacist” means a pharmacist whose services are engaged on a
routine basis by a euthanasia agency and who is responsible for the distribution, receipt and storage of drugs
according to the state and federal regulations.

D. Words starting with the letter D:

(1) “Dangerous drug” means a drug, other than a controlled substance enumerated
in Schedule I of the Controlled Substances Act, that because of a potentiality for harmful effect or the method of its
use or the collateral measures necessary to its use is not safe, except under the supervision of a practitioner licensed

by law to direct the use of such drug and hence for which adequate directions for use cannot be prepared. 'Adequate directions for use' means directions under which the layperson can use a drug or device safely and for the purposes for which it is intended.

(2) "DEA" means United States drug enforcement administration.

[1.] [~~"Department" means the regulation and licensing department.~~]

(3) "Disposition" means the adoption of an animal; return of an animal to the owner; release of an animal to a rescue organization; release of an animal to another animal shelter or to a rehabilitator licensed by the department of game and fish or the United States fish and wildlife service; or euthanasia of an animal.

E. Words starting with E:

(1) "Emergency field euthanasia" means the process defined by rule of the board to cause the death of an animal in an emergency situation when the safe and humane transport of the animal is not possible.

(2) "Euthanasia" means to produce the humane death of an animal by standards deemed acceptable to the board as set forth in its rules.

(3) "Euthanasia agency" means a facility licensed by the board that provides shelter to animals on a regular basis, including ~~fa dog pound,~~ a humane society or a public or private shelter facility that temporarily houses stray, unwanted or injured animals, and that performs euthanasia.

(4) "Euthanasia drugs" means non-narcotic schedule II or schedule III substances and chemicals as set forth in the Controlled Substances Act, Section 30-31-1 et. seq. NMSA 1978, that are used for the purposes of euthanasia and pre-euthanasia of animals.

(5) "Euthanasia instructor" means a euthanasia technician or a veterinarian certified by the board to instruct other individuals in euthanasia techniques.

(6) "Euthanasia technician" means a person licensed by the board to euthanize animals for a euthanasia agency.

(7) "Exotic" means any vertebrate animals, excluding man, wild animals, livestock and companion animals.

F. Words starting with F:

(1) "FDA" means United States food and drug administration.

G. Words starting with G: [Reserved]

H. Words starting with H:

(1) "Humanely" means actions marked by compassion, sympathy or consideration, especially for the prevention of the suffering of the animal.

I. Words starting with I: [Reserved]

J. Words starting with J: [Reserved]

K. Words starting with K: [Reserved]

L. Words starting with L:

(1) "Livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch and exotic animals in captivity and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae but does not include canine or feline animals.

M. Words starting with M: [Reserved]

N. Words starting with N:

(1) "Non-livestock" means any animal not covered under the definition of livestock in Subsection L of Section 77-1B-2 NMSA 1978.

O. Words starting with O: [Reserved]

P. Words starting with P: [Reserved]

Q. Words starting with Q: [Reserved]

R. Words starting with R:

(1) "Rescue organization" means an organization that rescues animals and is not involved in the breeding of animals.

S. Words starting with S:

(1) "Sharps" means any discarded article that may cause punctures or cuts. Such wastes may include, but are not limited to needles, scalpel blades, glass slides, glassware, suture needles and trocars.

(2) "Supervising veterinarian" means a person who is a [veterinarian] New Mexico-licensed veterinarian, who holds both a valid New Mexico controlled substance license and a valid

federal drug enforcement agency license and who approves the drug protocols and the procurement and administration of all pharmaceuticals at a euthanasia agency.

T. Words starting with T: [Reserved]

U. Words starting with U: [Reserved]

V. Words starting with V:

(1) **“Veterinarian” means a person who is licensed as a doctor of veterinary medicine by the board of veterinary medicine pursuant to the Veterinary Practice Act, Section 61-14-1 et. seq. NMSA 1978.**

(2) **“Veterinary facility” means any building, mobile unit, vehicle or other location where services included within the practice of veterinary medicine are provided.**

W. Words starting with W:

(1) **“Wild animal” means any vertebrate animals under the jurisdiction of the New Mexico game and fish department.**

X. Words starting with X: [Reserved]

Y. Words starting with Y: [Reserved]

Z. Words starting with Z: [Reserved]

[16.24.1.7 NMAC - N, 7/1/18]

~~[16.24.1.8 BOARD OPERATIONS:~~

~~A. Quorum. The board shall transact official business only at a legally constituted meeting with a quorum present. A simple majority of the appointed board members constitutes a quorum. The board is in no way bound by any opinion, statement, or action of any board member, the board administrator, or other staff except when such action is pursuant to a lawful instruction or direction of the board.~~

~~B. Addressing the board. Except for proceedings to adopt, amend, or repeal rules in accordance with the Uniform Licensing Act, Section 61-1-29 NMSA 1978, the board, at its sole discretion, may provide a reasonable opportunity for persons attending an open meeting to address the board on an agenda item. The request to speak shall be timely made and shall not delay or disrupt the board’s meeting. No person shall be permitted to address the board on any pending or concluded application, complaint, investigation, adjudicatory proceeding, or matter in litigation, except to confer for the purpose of settlement or simplification of the issues. Any public comment to the board shall be brief, concise, and relevant to the agenda item. The board may limit the total time allotted for comments and the time allotted to any person.~~

~~C. Conflict of interest, recusal. Any board member who cannot be impartial in the determination of a matter before the board and who cannot judge a particular matter or controversy fairly on the basis of its own merits, including because the board member had prior knowledge of the controversy, shall not participate in the any board deliberation or vote on the matter. A board member with a personal, social, family, financial, business, or pecuniary interest in a matter shall recuse himself or herself and shall not participate in a hearing, consideration, deliberation, or vote on the matter, except as provided by law.~~

~~D. Confidentiality. Board members shall not disclose to any non-member the content of any executive session discussion or deliberation, or any other confidential matters that may be the subject of an executive session or attorney-client privileged communications except as ordered by a court of competent jurisdiction or where the board knowingly and intentionally permits disclosure. Nothing herein shall preclude the board from including in executive session discussions or confidential committee meetings the board administrator or other persons the board deems necessary to assist the board in carrying out its operations. Such other persons shall be bound by the same rules of executive session as board members.~~

~~[16.24.1.8 NMAC—Rp, 16.24.1.8 NMAC, 2/5/14]~~

~~16.24.1.9 BOARD MEETING TELEPHONIC ATTENDANCE:~~

~~A. Pursuant to the provisions of the Open Meetings Act, Subsection C of Section 10-15-1, NMSA 1978, board members may participate in a meeting of the board by means of a conference telephone or similar communications equipment.~~

~~(1) Board members’ participation in meetings telephonically shall constitute presence in person at the meeting.~~

~~(2) Telephonic participation may occur only when it is difficult or impossible for the board member to be physically present, that is, when there are circumstances which make attendance in person extremely burdensome.~~

~~_____ B. _____ Each board member participating telephonically shall be identified when speaking and all participants shall be able to hear all other participants.~~

~~_____ C. _____ Members of the public attending the meeting shall be able to hear all members of the board and members of the public who speak during the meeting.~~

~~[16.24.1.9 NMAC - Rp, 16.24.1.9 NMAC, 2/5/14]~~

~~16.24.1.10 _____ INSPECTION OF PUBLIC RECORDS:~~

~~_____ A. _____ Public Records. The board operates in compliance with the Inspection of Public Records Act, Section 14-2-1 et. seq. NMSA 1978. The board administrator is the custodian of the board's records.~~

~~_____ B. _____ Copying charges. The custodian shall charge the standard copying charge established by the department.~~

~~_____ 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 Inspection of Public Records Act 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.~~

~~[16.24.1.10 NMAC - Rp, 16.24.1.10 NMAC, 2/5/14]~~

16.24.1.8 NON-PUBLIC RECORDS: The following records are considered confidential and are not subject to public inspection:

- A.** letters of reference;
- B.** medical reports or records of chemical dependency, physical or mental examinations or treatment;
- C.** the contents of any examination used to test for an individual's knowledge or competence;
- D.** investigative files if disclosure would impede the investigation;
- E.** written communication relating to actual or potential disciplinary action, including complaints,

until the board acts or declines to act; and

- F.** matters of opinion in personnel files.

[16.24.1.8 NMAC - N, 7/1/18]

16.24.1.9 SAVINGS CLAUSE: If any provision of these rules or the application thereof to any person or circumstances shall be held to be invalid or unconstitutional, the remainder of these rules and the application of such provisions to other persons or circumstances shall not be affected thereby.

[16.24.1.9 NMAC - N, 7/1/18]

HISTORY OF 16.24.1 NMAC: [Reserved]