

# TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

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## SUBCHAPTER 140-50.1

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Subchapter Authority: 3 CMC § 2214(a).

Subchapter History: Amdts Adopted 34 Com. Reg. 33031 (Oct. 29, 2012); Amdts Proposed 34 Com. Reg. 32742 (Aug. 29, 2012); Amdts Adopted 34 Com. Reg. 32493 (July 29, 2012); Amdts Proposed 34 Com. Reg. 32440 (May 29, 2012); Amdts Adopted 29 Com. Reg. 27474 (Oct. 17, 2007); Amdts Proposed 29 Com. Reg. 26796 (Sept. 17, 2007); Amdts Adopted 29 Com. Reg. 26432 (Feb. 15, 2007); Amdts Proposed 28 Com. Reg. 26314 (Nov. 30, 2006); Amdts Adopted 22 Com. Reg. 17486 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17056 (Mar. 20, 2000); Amdts Adopted 21 Com. Reg. 17010 (Dec. 15, 1999); Amdts Proposed 21 Com. Reg. 16914 (Oct. 15, 1999); Amdts Adopted 21 Com. Reg. 17019 (Dec. 15, 1999); Amdts Proposed 21 Com. Reg. 16838 (July 23, 1999); Amdts

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Adopted 21 Com. Reg. 16862 (July 23, 1999); Amdts Proposed 21 Com. Reg. 16598 (Mar. 18, 1999); Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Amdts Proposed 10 Com. Reg. 5724 (Oct. 15, 1988);\* Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).\*

\*Notices of adoption for the October 1986 Licensure of Health Care Professionals and Health Care Facilities Rules and Regulations and the October 1988 amendments were never published. However, the 1988 amendments stated: "These amendments shall become effective at 12:01 a.m., January 1, 1989." See 10 Com. Reg. at 5724 (Oct. 15, 1988).

Commission Comment: PL 1-8, tit. 1, ch. 12, codified as amended at 1 CMC §§ 2601-2633, created the Department of Public Health and Environmental Services (DPHES) within the Commonwealth government. See 1 CMC § 2601. 1 CMC § 2603(c) grants the Department the power and duty to establish standards of medical and dental care and practice and to license medical and dental practitioners. 1 CMC § 2605(f) directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction.

PL 3-30 (effective Nov. 30, 1982), the "Medical Practice Act of 1982," codified as amended at 1 CMC §§ 2641-2642 and 3 CMC §§ 2201-2272, creates a Medical Profession Licensing Board within DPHES charged with regulating the practice of medicine in the Commonwealth and licensing health care professionals. 3 CMC § 2214 authorizes the Board to adopt rules and regulations consistent with the act.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles, and effected numerous other revisions. According to Executive Order 94-3 § 105:

Section 105. Department of Public Health.

The Department of Public Health and Environmental Services is re-designated the Department of Public Health.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

PL 15-105 (effective Nov. 7, 2007), the "Health Care Professions Licensing Act of 2007," repealed and re-enacted 1 CMC §§ 2641-2642 and 3 CMC §§ 2201-2272. To the extent that these regulations conflict with PL 15-105, they are superseded.

In January of 2008, the Board promulgated a new subchapter entitled "Commonwealth Health Care Professions Licensing Board Regulations" on an emergency basis. 30 Com. Reg. 27975 (Jan. 22, 2008). This subchapter was adopted on a permanent basis in March of 2008. 30 Com. Reg. 28388 (Mar. 25, 2008). The Public Notice of Emergency Regulations and the Public Notice of Certification and Adoption of Rules and Regulations both indicate the Board's intent to codify this as a new subchapter, 140-50.3. As stated in the Public Notice of Proposed Rules and Regulations:

These Rules and Regulations are the first of the Board's new Rules and Regulations. These create Rules and Regulations 140 NMIAC 50.3, Part 001 through Part 9000. Many of the sections are reserved, with no content presently.

These Regulations shall also be deemed amendments to the Board's Regulations. These amendments add to the Regulations of the Medical Profession-Licensing Board, 140 NMIAC 50.1-001 - 9000. The regulations are the attached new Subchapter 140-50.3, Health Care Professions Licensing Board Rules and Regulations.

However, some of the contents of these regulations appear to duplicate or conflict with regulations contained in subchapter 140-50.1. As it is unclear which, if any, of the provisions of subchapter 140-50.1 the Board intended to replace, the Commission codified subchapter 140-50.3 as written.

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Public Law 16-51 (effective Jan. 15, 2010), the “Commonwealth Healthcare Corporation Act of 2008,” codified at 3 CMC § 2801 et seq., established the Commonwealth Healthcare Corporation, which assumed the duties of the Department of Public Health as of January 15, 2011.

### Part 001 - General Provisions

#### § 140-50.1-001 Definitions

As used in the regulations in this subchapter unless the context otherwise requires, the words and terms defined in each part have the meanings ascribed to them in those parts. In addition, the following definitions apply:

- (a) “Applicant” means a person who is applying or petitioning for any rights, license, or authority from the Board.
- (b) “Board” means the Commonwealth of the Northern Marianas Medical Profession Licensing Board.
- (c) “Gross malpractice” means malpractice where the failure to exercise the requisite degree of care, diligence, or skill consists of ministering to a patient while the health professional is under the influence of alcohol or any controlled substance.
- (d) “Malpractice” means failure on the part of a health professional to exercise the degree of care, diligence, and skill ordinarily exercised by health professionals in good standing in the community in which they practice.
- (e) “Unprofessional conduct” means:
  - (1) Obtaining a license under fraudulent credentials, or gross misrepresentation.
  - (2) Procuring, aiding, or abetting in procuring, criminal abortion.
  - (3) Obtaining a fee on assurance that a manifestly incurable disease can be permanently cured.
  - (4) Advertising health care business in which grossly improbable statements are made, advertising in any manner that will tend to deceive, defraud, or mislead the public, or preparation, causing to be prepared, using, or participating in the use of any form of public communication that contains professionally self-laudatory statements calculated to attract lay patients. As used in this subsection, public communication includes, but is not limited to, communications by means of television, radio, newspapers, books and periodicals, motion picture, handbills, or other printed matter. Nothing contained in this subsection prohibits the direct mailing of informational documents to former or current patients.
  - (5) Willful disobedience of the law, or of the regulations in this subchapter.
  - (6) Conviction of any offense involving moral turpitude or the conviction of a felony. The record of the conviction is conclusive evidence of unprofessional conduct.
  - (7) Conviction or violation of any federal or Commonwealth law regulating possession, distribution, or use of any controlled substance. The record of conviction is conclusive evidence of unprofessional conduct.

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- (8) Habitual intemperance or excessive use of alcohol or alcoholic beverages, or any controlled substance as defined herein.
- (9) Conduct unbecoming a person or agency licensed to practice in or serve as a health profession function, or detrimental to the best interests of the public.
- (10) Violating or attempting to violate, directly or indirectly, or assisting in abetting the violation of, or conspiring to violate, any provision of the regulations in this subchapter.
- (11) Employing, directly or indirectly, any suspended or unlicensed practitioner in the practice or any system or mode of treating the sick or afflicted.
- (12) Repeated claims of malpractice settled against a practitioner.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published.

The Commission inserted commas after the words “using” in subsection (e)(4) and “distribution” in subsection (e)(7) pursuant to 1 CMC § 3806(g).

### **§ 140-50.1-005 Severability**

The provisions contained in part 100 through part 1200 of the regulations in this subchapter are hereby declared to be severable and the invalidity of any rule, clause, sentence, paragraph, or section shall not affect the validity of the remainder.

Modified, 1 CMC § 3806(b), (c), (d).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: For consistency in the NMIAC, the Commission moved this section from former § 1-30 at the end of chapter 1, codified as part 100. See 11 Com. Reg. at 6387 (Sept. 15, 1989).

A notice of permanent adoption for the 1986 emergency regulations was never published.

The Commission inserted a comma after the word “paragraph” pursuant to 1 CMC § 3806(g).

## **Part 100 - Licenses**

### **Subpart A - Licenses**

#### **§ 140-50.1-101 Examinations for License to Practice; Specification**

- (a) All applicants for license to practice in the Commonwealth must be examined by the Board. Examinations shall be held at such places within the Commonwealth and at such times as are fixed by the Board.

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- (b) The examinations may be any combination of written, oral, practical or demonstrative.
- (c) The Board may license an applicant who holds a current and valid license or certificate issued to him by the medical examining board of the jurisdiction where he is currently licensed, or a certificate as diplomate of the National Board of Medical Examiners of the United States, provided:
- (1) That the legal requirements of such medical examining board were, at the time of issuance of the license or certificate in no degree or particular less than those of the CNMI at the time of issuing such license;
  - (2) That the applicant may be required to pass an oral examination; and
  - (3) That the applicant shall furnish to the Board such other proof of qualifications, professional or moral, as the Board may require.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published. The Commission inserted a comma after the word “practical” in subsection (b) pursuant to 1 CMC § 3806(g).

### **§ 140-50.1-102 Verified Applications for Examination; Contents; Time for Filing**

- (a) An applicant for examination must file an application not less than 60 days before the date of an examination.
- (b) Applications must be filed with the Board on forms to be furnished by the Board.
- (c) Each applicant for examination must agree to a background investigation which may include fingerprint, if requested by the Board.
- (d) Applications must be verified and must state the following:
- (1) When and where the applicant was born and the various places of his residence.
  - (2) The name, age, gender, and place of residence of the applicant.
  - (3) The names and addresses of all persons or agencies by whom the applicant has been employed for the five year period immediately preceding the making of the application.
  - (4) Whether or not the applicant has ever applied for a license to practice the profession or function in any other state or territory; if so, when, where, and the results thereof.
  - (5) How long the applicant has resided in the CNMI; whether the applicant is a bona fide resident of the CNMI, and has immigration status.
  - (6) Whether or not the applicant has ever been admitted to the practice or function in any other state or territory; if so, and he has been licensed to practice or function in another state or territory, he shall report whether any discharge, dismissal, disciplinary, or other proceedings of a like nature have ever been instituted against him. Applicant shall attach a certificate of the board of the place in which the applicant was last licensed, certifying that the applicant is a member in good standing of the practice or function in that place, and that no proceedings affecting his standing as a health practitioner or agency are pending.
  - (7) The applicant’s general and professional education, including the schools attended, time

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of attendance at each school, and whether or when graduated from such school or schools.

Modified, 1 CMC § 3806(f).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published. The Commission inserted a comma after the word “disciplinary” in subsection (d)(6) pursuant to 1 CMC § 3806(g).

### **§ 140-50.1-104      Reciprocity**

If an applicant for a license has practiced in another state or territory of the U.S., he must include with his application:

- (a) A certification by the licensing authority of the state or territory where he last practiced that the licensee is in good standing and that no proceedings affecting his standing are pending;
- (b) A letter from the medical association of the city or county where he last practiced, or if there is no local association, from the state association, certifying to his good moral character;
- (c) Such other evidence of his good moral character and professional competence as may be required by the Board; and
- (d) A statement of any claims of professional malpractice against him, including the complete details of the disposition of each claim.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published.

### **§ 140-50.1-106      Records of Issuance or Denial of License**

The Board shall maintain records pertaining to applicants to whom licenses have been issued or denied, in the records shall be recorded:

- (a) The names and residences of all applicants.
- (b) The names of the school granting the diploma to and date of diploma for each.
- (c) The date of issuance or denial of license.
- (d) Any other information required by the Board.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986)



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(effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published.

### **§ 140-50.1-108 Re-applications**

An applicant who is denied a license for a reason other than his failure to pass an examination may not reapply until he requests and receives permission of the Board to do so.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published.

### **§ 140-50.1-110 Demand for Hearing**

(a) Any person whose application for a license or permit or whose application for the renewal of a license or permit has been denied by the Board shall be entitled to a hearing, provided that a request for a hearing is filed with the Board within sixty days of the date of mailing of the letter informing the applicant of the denial of his application and informing the applicant of his right to appeal within sixty days.

(b) If a demand for hearing is filed within the time prescribed, the Board shall order a hearing in accordance with procedures determined by the Board.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b). A notice of permanent adoption for the 1986 emergency regulations was never published.

### **§ 140-50.1-112 Qualifications of Applicant**

An applicant must, in addition to the requirements of the specific license for which application is made, furnish satisfactory evidence to the Board that he is of good moral character and, if licensed to practice or function in another state or territory, possesses a good professional reputation.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published.

### **§ 140-50.1-114 Licenses; Signatures of Board Officers**

All licenses must be signed by the Board Chairman and Secretary and be attested by the official

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seal of the Board.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published.

### § 140-50.1-116 Licenses; Fees

The following fees must be paid for the following services:

(a)	Application for initial licensure or certification	\$100.00
(b)	Initial license fees for physicians, dentists, pharmacists, optometrists, psychologists, professional counselors, and chiropractors	\$200.00
(c)	Initial license fees; all other health care professionals	\$100.00
(d)	Temporary license fees; all eligible professions	\$100.00
(e)	Registration fees (pharmacy technicians & dental assistants)	\$50.00
(f)	License renewal fees (for subsection (b) professionals above)	\$200.00
(g)	License renewal fees (all other health care professionals)	\$100.00
(h)	Delinquent fee (will be charged every 1 <sup>st</sup> of the month after expiration date)	\$25.00
(i)	Replacement/duplication of license	\$75.00
(j)	Replacement/duplication of wallet-sized card	\$25.00
(k)	Application for License to Operate Clinical/Medical Laboratory or Pharmacy	\$200.00
(l)	License to Operate Clinical/Medical Laboratory or Pharmacy	\$300.00
(m)	License renewal to Operate Clinical/Medical Laboratory or Pharmacy	\$300.00
(n)	Letter of Good Standing fee	\$25.00
(o)	Research of licensure status (per licensee)	\$20.00
(p)	License verification fee	\$25.00
(q)	Fees for documents shall be as follows:	
(1)	Photocopies	\$0.50 per page
(2)	Electronic files on CD	\$10.00 each CD
(3)	Electronic files on DVD	\$20.00 each DVD
(4)	Copies of meeting minutes on cassette tape	\$15.00 per tape
(5)	To certify copies	\$1.00 per page
(6)	If complying for a request for copies of documents	Labor shall be charged at the rate of \$20.00 per hour
(r)	Annual reports of the Board	\$10.00 per copy
(s)	Preparation of record on appeal	Labor shall be charged at the rate of \$20.00 per hour
(t)	In forma pauperis waiver	\$0.00

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- (u) Such other charges and fees may be charged as shall be required for special licensee-related services, as performed in-house or through a contract.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 34 Com. Reg. 33031 (Oct. 29, 2012); Amdts Proposed 34 Com. Reg. 32742 (Aug. 29, 2012); Amdts Adopted 29 Com. Reg. 27474 (Oct. 17, 2007); Amdts Proposed 29 Com. Reg. 26796 (Sept. 17, 2007); Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Amdts Proposed 10 Com. Reg. 5724 (Oct. 15, 1988); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: This section is similar to the fee schedule adopted at section 140-50.3-1605 in 2008.

A notice of permanent adoption for the 1986 emergency regulations was never published.

A notice of adoption for the October 1988 amendments was never published. However, the 1988 amendments stated: "These amendments shall become effective at 12:01 a.m., January 1, 1989." See 10 Com. Reg. at 5724 (Oct. 15, 1988).

### **§ 140-50.1-118 Period of Validity; Renewal of License**

- (a) Licenses shall be valid for a period of twenty-four calendar months from date of issue, and shall expire on the last day of the twenty-fourth calendar month after issue or renewal. Licenses must be renewed on or before the last day of the twenty-fourth calendar month after issue, except that if the last day of the period of validity falls on a Saturday, Sunday or legal holiday, the license must be renewed by the close of business of the next following business day.
- (b) The renewal fee must be paid to the Board in full at the time of application for renewal.
- (c) In the event of failure to renew before expiration, a license may be reinstated and the license renewed upon payment of the renewal fee plus a penalty of twenty-five dollars for each month of delinquency, accruing in full on the first day of the month. Renewal shall run from the original date of expiration.
- (d) Transition to 24 month renewal.
  - (1) All licenses issued on or after December 31, 1987, and prior to January 1, 1989, shall remain effective through December 31, 1988.
  - (2) All licenses issued on and after January 1, 1989, shall expire as provided in subsection (a) above.

Modified, 1 CMC § 3806(c), (e).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Amdts Proposed 10 Com. Reg. 5724 (Oct. 15, 1988); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published. A notice of adoption for the October 1988 amendments was never published. However, the 1988 amendments stated: "These amendments shall become effective at 12:01 a.m., January 1, 1989." See 10 Com. Reg. at 5724 (Oct. 15,

1988).

The Commission corrected the spelling of the word “validity” in the section title pursuant to 1 CMC § 3806(g).

**§ 140-50.1-120 Posting License and Renewal Card**

Each holder of a license and/or renewal card shall keep the same posted conspicuously in his office or place of practice at all times.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published.

**§ 140-50.1-122 Grounds for Initiating Disciplinary Action**

The grounds for initiating disciplinary action under the regulations in this subchapter are:

- (a) Unprofessional conduct.
- (b) Conviction of:
  - (1) A violation of any federal or Commonwealth law regulating the possession, distribution, or use of any controlled substance;
  - (2) A felony; or
  - (3) Any offense involving moral turpitude.
- (c) Suspension or revocation of a license to practice by any jurisdiction.
- (d) Malpractice.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published. The Commission inserted a comma after the word “distribution” in subsection (b)(1) pursuant to 1 CMC § 3806(g).

**§ 140-50.1-124 Filing of Written Complaint against Person Licensed to Practice**

The Board or any of its members who become aware that any one or a combination of the grounds for initiating disciplinary action may exist as to a person practicing in the CNMI shall, and any other person who is aware of any, file a written complaint with the Secretary of the Board specifying the relevant facts.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986)

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(effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published.

### **§ 140-50.1-126 Complaint to Be Considered by Officers of Board; Notice of Hearing; Discussion of Insufficient Complaints by Board**

(a) When a complaint is filed with the Secretary of the Board, it must be considered by the Chairman and the Secretary of the Board. If, from the complaint or from other official records, it appears that the complaint may be well founded in fact, the Secretary shall cause written notice of the charges in the complaint to be served upon the person charged at least by personal service or registered mail 20 days before the date fixed for the hearing.

(b) If the complaint is not deemed by the Chairman and the Secretary to be of sufficient importance, or well sufficiently founded to merit bringing proceedings against the person charge, the complaint shall be presented to the Board and the Board shall decide on the sufficiency of the complaint.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published.

### **§ 140-50.1-128 Hearing; Authorized Disciplinary Actions; Disposition of Fines**

(a) The person charged is entitled to a hearing before the Board, but the failure of the person charged to attend his hearing or his failure to defend himself shall not delay or void the proceedings. The Board may, for good cause shown, continue any hearing from time to time.

(b) If the Board finds the person charged has violated 3 CMC §§ 2201-2272, or the regulations in this subchapter, it may:

- (1) Place the person on probation for a specific period or until further order of the Board.
- (2) Administer to the person a public or private reprimand.
- (3) Limit the practice of the person, by the exclusion of or to, one or more specified branches of his profession.
- (4) Suspend the license of the person to practice for a specified period or until further order of the Board.
- (5) Revoke the license of the person to practice.
- (6) Impose a fine of not more than \$500.00.
- (7) Impose any sanction provided in 3 CMC § 2252(e).

Modified, 1 CMC § 3806(d).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published.

**§ 140-50.1-130 Disciplinary Action by Hearing Officer or Panel; Procedural Requirements; Powers and Duties of Officer or Panel; Appeals**

- (a) Any disciplinary action taken by a hearing officer or panel designated by the Board is subject to the same procedural requirements which apply to disciplinary actions taken by the Board, and the officer or panel has those powers and duties given to the Board in relation thereto.
- (b) A decision of the hearing officer or panel relating to the imposition of a fine is a final decision in a contested case. Any party aggrieved by a decision of the officer or panel may appeal that decision to the Board.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published.

**§ 140-50.1-132 Subpoenas**

For the purposes of this part, the Secretary or Chairman of the Board may issue subpoenas to compel the attendance of witnesses and the production of records and documents.

Modified, 1 CMC § 3806(d).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published.

**§ 140-50.1-134 Judicial Review; Effective Date of Order; Limitation on Stay of Order**

- (a) Any person who has been by action of the Board, placed on probation or whose license has been limited, suspended or revoked, or who is otherwise aggrieved by Board action is entitled to judicial review of the Board's order.
- (b) Every order of the Board which limits practice or revokes a license is effective from the date the Board certifies the order, until the order is modified or reversed by the Board or an order of the court.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published.

**§ 140-50.1-136 Application for Removal of Limitation or Restoration of License**

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- (a) Any person:
  - (1) Whose practice has been limited; or
  - (2) Whose license to practice has been suspended until further order or revoked by an order of the Board may apply to the Board after a reasonable period for removal of the limitation or restoration of his license.
  
- (b) In hearing the application, the Board:
  - (1) May require the person to submit to a mental or physical examination by physicians or other appropriate persons whom it designates and submit such other evidence of changed conditions and of fitness as it deems proper;
  - (2) Shall determine whether under all the circumstances the time of the application is reasonable;
  - (3) May deny the application or modify or rescind its order as it deems the evidence and the public safety warrant.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published.

### **§ 140-50.1-138 Board May Enjoin Unlicensed Practice**

- (a) In addition to any other remedy provided by law, the Board, through its Chairman, Secretary or its Attorney, or the Attorney General, may apply to any court of competent jurisdiction to enjoin any unlicensed person from practicing or representing himself to be a health care professional.
  
- (b) The court in a proper case may issue a temporary restraining order or a preliminary injunction for such purposes.

Modified, 1 CMC § 3806(f).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published.

### **§ 140-50.1-140 Records of Proceedings Relating to Licensing and Disciplinary Action; Confidentiality of Information**

- (a) The Board shall keep a record of its proceedings relating to licensing and disciplinary actions. These records must be open to public inspection at all reasonable times and must contain the name, place of business and residence, and the date and number of the license of every person or agency licensed under this part. The Board may keep such other records as it deems desirable.

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(b) Except as provided in this subsection, all information pertaining to the personal background, medical history or financial affairs of an applicant or licensee which the Board requires to be furnished to it under this part, or which it otherwise obtains, is confidential and may be disclosed in whole or in part only as necessary in the course of administering this part or upon the order of a court of competent jurisdiction. The Board may, under procedures established by regulation, permit the disclosure of this information to any agent of the federal government, or another state or territory, or of any political subdivision of the CNMI who is authorized to receive it.

(c) Notice of the disclosure and the contents of the information disclosed pursuant to subsection (b) must be given to the applicant or licensee who is the subject of that information.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published.

### **Subpart B - Exemptions**

#### **§ 140-50.1-142 Persons Exempted**

The provisions of the rules and regulations in this subchapter apply to all persons except persons residing in the CNMI who, on and prior to the effective date of these rules and regulations, were and are actively practicing any of the medical professions covered in part 100 through part 1200 of the MPLB regulations codified in this subchapter. Persons so residing and practicing may, within thirty days following the effective date of these regulations, file an application with the Board for a license to continue to practice in the CNMI in their respective professional area. The Board shall review each such application and consider the applicants professional reputation and experience. The Board may license such an applicant whose combination of experience, general education and formal training indicate that the applicant is capable of performing the duties and functions of the professional area for which application is filed.

(a) Application must be filed on forms provided by the Board.

(b) Application must be accompanied by a recent photograph of the applicant, and the application fee as determined by the Board.

Modified, 1 CMC § 3806(c), (d), (e).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published.



**§ 140-50.1-144      Facilities Exempted**

The provisions of the rules and regulations in this subchapter apply to all medical facilities except medical facilities actively functioning and operated by the CNMI government on the effective date of these rules and regulations. Such government facilities may within thirty days following the effective date, file an application with the Board, on forms provided by the Board, for a license to continue to engage in and operate the health care professions and functions presently engaged in or carried out by such facilities, after the effective date of these regulations.

Modified, 1 CMC § 3806(d), (e), (f).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989); Emergency and Proposed 8 Com. Reg. 4709 (Oct. 22, 1986) (effective for 120 days from Oct. 16, 1986).

Commission Comment: A notice of permanent adoption for the 1986 emergency regulations was never published.

**Part 200 -      Acupuncture Regulations**

**§ 140-50.1-201      Definitions**

(a)      “Acupuncturist” means a person who is licensed to practice acupuncture in accordance with the provisions of the regulations in this part.

(b)      “Practice of acupuncture” means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body and includes the techniques of electroacupuncture, cupping, and moxibustion.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsection (a), the Commission changed “provision” to “provisions” to correct a manifest error.

**§ 140-50.1-205      License Requirement; Exceptions**

The regulations in this part shall not be construed to prevent the practice of acupuncture by a person licensed as a physician, osteopathic physician, veterinarian, dentist, or a podiatrist, within the scope of their respective licenses, if the licensee has received a course of instruction in acupuncture approved by the licensing board having jurisdiction over the licensee, except that the requirement for a course of instruction in acupuncture shall not apply to any licensee of the Commission who has utilized acupuncture in his practice prior to January 1, 1984.

Modified, 1 CMC § 3806(d).

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History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: The Commission inserted a comma after the word “dentist” pursuant to 1 CMC § 3806(g).

### **§ 140-50.1-210      Authorized Activities**

An acupuncturist’s license authorizes the holder thereof:

- (a) To engage in the practice of acupuncture.
- (b) To perform or prescribe the use of oriental massage, breathing techniques, exercise, or nutrition, including the incorporation of drugless substances and herbs as dietary supplement to promote health.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In the opening sentence, the Commission changed “authorized” to “authorizes.”

### **§ 140-50.1-215      Qualifications Required**

The Board may issue a license to practice acupuncture to any person who makes application to the Board and meets the following requirements:

- (a) Is at least 21 years of age.
- (b) Furnishes satisfactory evidence of completion of
  - (1) A course or tutorial program in acupuncture which is acceptable to the Board and furnishes satisfactory evidence of three years of experience performing acupuncture or
  - (2) Is licensed to practice acupuncture by a state or territory of the United States.
- (c) Is sufficiently proficient in the English language to carry on an appropriate conversation with patients.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In the opening paragraph, the Commission corrected the spelling of “license.”

### **§ 140-50.1-220      Application for Licensure; Qualifications**

Any person desiring a license to practice acupuncture in the CNMI shall make written application to the Board on application forms provided by the Board. The application shall provide such information and proof as the Board may require by rule. The application shall be

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accompanied by a fee in the amount established and published by the Board.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

### **Part 300 - Chiropractic Regulations**

#### **Subpart A - Definitions**

##### **§ 140-50.1-301 Definitions**

As used in this part, the words and terms defined herein have the following meanings:

(a) “Chiropractic” means the art, science, and practice of palpating and adjusting the articulations of the human body by hand.

(b) “Chiropractor” means one who adjusts spinal column and other articulations of the body to prevent disease and correct abnormalities of the human body.

Modified, 1 CMC § 3806(d), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsection (b), the Commission changed “adjust” to “adjusts” to correct a manifest error.

#### **Subpart B - License**

##### **§ 140-50.1-305 Examination for License to Practice Chiropractic; Specifications**

All applicants for license to practice chiropractic in the CNMI must:

(a) Comply with the Board regulations;

(b) Satisfactorily complete a written and oral, practical and demonstrative examination of skill in chiropractic technique.

Modified, 1 CMC § 3806(f).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

##### **§ 140-50.1-310 Practice by Applicant Waiting to Take Examination**

(a) An applicant for a license to practice chiropractic may perform chiropractic as specified in § 140-50.1-301, prior to examination if:

(1) His completed application is on file with the Board and he meets the requirements of § 140-50.1-320.

- (2) The fee for the application has been paid; and
- (3) The Board has received a notarized statement from the supervising chiropractic setting forth:
  - (i) The fact of the applicant's employment;
  - (ii) The supervisor's acceptance of professional and legal responsibility for the applicant's work; and
  - (iii) The work program established for the applicant, which shall not include body manipulation.
  
- (b) The employer shall notify the Board if the applicant leaves his employment.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

**§ 140-50.1-315 Admission to Practice Without Written Examination**

Any applicant of good moral character may be licensed without written examination upon the payment of the fee required by this part if he passes the required oral and practical examination and holds a certificate from the National Board of Chiropractic Examiners.

Modified, 1 CMC § 3806(d).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

**§ 140-50.1-320 Qualifications of Applicants**

An applicant must, in addition to satisfying the requirements of part 100, furnish satisfactory evidence to the Board that he:

- (a) Is a graduate from a college of chiropractic approved by the Board.
- (b) Is and/or was licensed to practice in another jurisdiction, if he has ever been so licensed to practice.
- (c) Is lawfully entitled to remain and work in the CNMI.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

**§ 140-50.1-325 Licenses; Use of Term "Chiropractic Physician"**

A license to practice chiropractics authorizes the holder thereof to use the term "chiropractic physician," or "doctor of chiropractic" and the initials "D.C." may be used to follow the name of

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the chiropractor.

Modified, 1 CMC § 3806(g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: The Commission moved the comma after “physician” inside of the closing quotation mark.

### **§ 140-50.1-330           Renewal of License; Fees; Educational Requirements; Reinstatement**

(a) Licenses must be renewed on or before the last day of the twenty-fourth calendar month after issue, except that if the last day of the period of validity falls on a Saturday, Sunday or business of the next following business day.\* Each person licensed to practice chiropractic may, upon the payment of the fee provided for in this section, be granted a renewal certificate which authorized him to continue to practice for two years.

\*So in original.

(b) Every person holding a valid license and actively practicing chiropractic in the CNMI, whether on a full-time or part-time basis, must pay a renewal fee as set by the Board.

(c) Each renewal fee must be paid to the Board in full at the time of application for renewal.

(d) A licensee in active or part-time practice within the CNMI must submit satisfactory proof to the Board that he has attended at least one 2-day continuing education seminar of at least 10 hours, approved or endorsed by the Board, with the exception of a licensee who has reached the age of 70 years, and maintains membership in at least one professional national chiropractic association. The educational requirement of this section may be waived by the Board if the licensee files with the Board a statement of a chiropractic physician, osteopathic physician, or doctor of medicine certifying that the licensee is suffering from serious or disabling illness or physical disability which prevented him from attending the required educational seminar during the 12 months immediately preceding the two year licensing renewal date.

(e) If a licensee fails to pay his renewal fee at the time of application for renewal or fails to submit proof of continuing education pursuant to subsection (d), his license is automatically suspended.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsection (a), the Commission changed “expect” to “except” to correct a manifest error. The Commission inserted a comma after the word “physician” in subsection (d) pursuant to 1 CMC § 3806(g).

### **§ 140-50.1-335           Advertising; Clinics**

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No facility other than a facility for student practice which is affiliated with a school offering courses in chiropractic approved by the Board may be advertised as a chiropractic clinic unless it has:

- (a) A full time staff of three or more licensed chiropractors;
- (b) X-ray equipment on the premises as prescribed by the Board;
- (c) A medical laboratory licensed pursuant to the regulations in this subchapter on the premises, or access to such a laboratory by the staff chiropractors;
- (d) A room specifically and exclusively designated for conference consultation among staff chiropractors; and
- (e) At least the following orthopedic and neurological equipment: gonio-meter-flexometer; ophthalmoscope; otoscope; proctoscope; reflex hammer; measuring tape; tuning fork; chemicals for testing olfactory stimulation.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

### **Subpart C - Prohibited Acts; Penalties**

#### **§ 140-50.1-340 Construction of Part**

Nothing in this part shall be construed to permit a chiropractor to practice medicine, osteopathic medicine, dentistry, optometry or podiatry, to administer or prescribe drugs, or to perform surgical techniques.

Modified, 1 CMC § 3806(d).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

#### **§ 140-50.1-345 Chiropractor Prohibited from Piercing or Severing Body Tissue; Exception**

A chiropractor shall not pierce or sever any body tissue, except to draw blood for diagnostic purposes.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

#### **§ 140-50.1-350 Unlawful Acts; Penalties**

Except as provided in § 140-50.1-310, it is unlawful for any person who does not hold a license

issued pursuant to this part to:

- (a) Practice chiropractics in the CNMI.
- (b) Hold himself out as a chiropractor.
- (c) Use any combination, variation, or abbreviation of the terms “chiropractor” or “chiropractic physician” as a professional or commercial representation.
- (d) Use any means which directly or indirectly conveys to another person the impression that he is qualified or licensed to practice chiropractics.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: The Commission inserted a comma after the word “variation” in subsection (c) pursuant to 1 CMC § 3806(g).

### **§ 140-50.1-355 Penalties**

Except as otherwise specifically provided herein, any person violating any of the provisions of this part shall be subject to the sanctions provided in 3 CMC §§ 2271 and 2272.

Modified, 1 CMC § 3806(d).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

## **Part 400 - Dentistry Regulations**

### **Subpart A - Definitions**

#### **§ 140-50.1-401 Definitions**

As used in this part, the words and terms defined herein have the following meanings:

- (a) “Dental assistant” means any person who assists a dentist in carrying out the basic functions and duties of a dental office.
- (b) “Dental hygiene” means the performance of education, preventive and therapeutic periodontal treatment including scaling, curettage and planing of roots and any related and required extraoral procedures that a dentist is authorized to assign to a dental hygienist, dental assistant, or dental nurse he employs or supervises.
- (c) “Dental hygienist” means a person trained in the techniques of removing plaques from teeth and other dental preventive treatments.

(d) “Dental nurse” means a person who has completed a school or college program in dental nursing approved by the Board, and who is professionally recognized as being competent and trained to render certain dental care without the direct supervision of a licensed dentist based on specialized education and training in dentistry and dental nursing.

(e) “Dentist” means a person who practices or represents oneself as being able to advise on, administer, supervise or perform professional and scientific work in the prevention, diagnosis and treatment of disease, injuries and deformities of the teeth, the jaws, organs of the mouth, to operate or prescribe for any disease, pain, injury, deformity or physical condition of the human teeth, alveolar process, gums, or jaw, or who offers or undertakes by any means or methods to diagnose, treat or operate for any disease, deficiency or condition of the same, or to take impressions of the teeth or jaws; or who owns, maintains, or operates an office of dentistry; or who engages in any of the practices included in the curricula of Board approved dental schools.

(f) “Dentistry” means that part of health care concerned with the prevention, diagnosis and treatment of diseases, injuries and deformities of the teeth, jaws, organs of the mouth, and other structure and connective tissues associated with the oral cavity and the masticatory system including the restoration of defective or missing teeth.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: The Commission corrected the spelling of the words “dentistry” and “and” in subsection (f) pursuant to 1 CMC § 3806(g).

## **Subpart B - License**

### **§ 140-50.1-405 Persons Deemed to Be Practicing Dentistry**

(a) Any person shall be deemed to be practicing dentistry who:

- (1) Uses any letters, words, or title in connection with his name which in any way represents him as engaged in the practice of dentistry, or any branch thereof;
- (2) Advertises or permits to be advertised by any medium that he can or will attempt to perform dental operations of any kind;
- (3) Diagnoses, professes to diagnose or treats or professes to treat any of the disease or lesions of the oral cavity, teeth, gums or maxillary and mandibular bones;
- (4) Extracts teeth;
- (5) Corrects malpositions of the teeth or jaws;
- (6) Takes impressions of the teeth, mouth, or gums other than as authorized by the regulations of the Board;
- (7) Examines a person for, or supplies artificial teeth as substitutes for natural teeth;
- (8) Places in the mouth and adjusts or alters artificial teeth;
- (9) Does any practice included in the dental clinical curricula of accredited dental colleges or a residency program for those colleges;



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- (10) Administers or prescribes such remedies, medicinal or otherwise, as are needed in the treatment of dental or oral disease; or
- (11) Uses x-ray radiation for dental treatment or dental diagnostic purposes.
- (b) A person who uses any dental degree, or designation, or any card, device, directory, poster, sign, or other media whereby he represents himself to be a dentist, shall be deemed to be engaged in the practice of dentistry.
- (c) Exemptions. Nothing in this section prevents or prohibits:
- (1) The performance of mechanical work on inanimate objects by any person employed in or operating a dental laboratory, upon the written work authorization of a licensed dentist.
- (2) Students from performing dental procedures that are part of the curricula of an accredited dental school or an accredited school of dental hygiene, dental assisting, or dental nursing.
- (3) A licensed dentist or dental hygienist from another state, territory, or country from appearing as a clinician for demonstrating certain methods of technical procedures before a dental society, organization or convention in the CNMI.
- (4) The manufacturing of artificial teeth upon receipt of a written authorization from a dentist licensed in the CNMI, if the manufacturing does not require direct contact with the patient.
- (5) The rendering of dental relief in emergency cases in the practice of one's profession by a physician or surgeon, licensed in the CNMI, unless one undertakes to reproduce or reproduces lost parts of the human teeth in the mouth or to restore or replace in the human mouth lost or missing teeth.
- (6) The practice of dentistry in the discharge of their official duties by persons employed by the United States government or other health agency designated by the Board.
- (7) A dental assistant, dental hygienist, dental nurse or x-ray technician from making radiograms or x-ray exposures for diagnostic purposes, under supervision of a licensed dentist.

Modified, 1 CMC § 3806(f).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: The Commission inserted commas after the words "words" in subsection (a)(1), "mouth" in subsection (a)(6), and "nurse" in subsection (c)(7) pursuant to 1 CMC § 3806(g).

### **§ 140-50.1-410 Practice Without License Prohibited; Exemptions**

- (a) No person shall practice dentistry or dental surgery in the CNMI, either gratuitously or for pay, or shall offer to so practice or shall advertise, announce, or otherwise hold himself out, either publicly or privately, as prepaid or qualified to so practice; or append the letters "D.D.S.," "L.D.S.," or any other degree to one's name with intent thereby to imply that he is a practitioner of dentistry or a dental surgeon without having a valid, unrevoked license from the Board.
- (b) Based on public need and necessity, the Board may permit a person licensed in another jurisdiction, to temporarily practice in the CNMI when it is shown to the satisfaction of the Board that a sufficient number of duly licensed dentists are or will not be available in the CNMI to meet the medical needs of the public or to provide basic government dental services, such

temporary permit shall not exceed sixty days but may be renewed as deemed necessary by the Board.

(c) Dentists, dental hygienists, dental nurses, and other providers of medical services who are called into the Commonwealth by the Commonwealth government to provide such services in consultation with or in assistance to a dentist or physician licensed in the CNMI, and who are duly licensed and legally qualified to practice in another jurisdiction, may be granted a temporary permit to practice not exceeding three months after the date of issuance and may be renewed by the Board for good cause.

Modified, 1 CMC § 3806(e), (f), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsection (a), the Commission moved the commas inside of the closing quotation marks. The Commission inserted commas after the words “announce” in subsection (a) and “nurses” in subsection (c) pursuant to 1 CMC § 3806(g).

#### **§ 140-50.1-415 Applications for License and Examination**

Every applicant for a license to practice dentistry, dental hygiene, or dental nursing in the CNMI shall:

- (a) File an application with the Board at least 60 days prior to the date on which the examination is to be given.
- (b) Accompany such application with a recent photograph of himself/herself together with the required examination fee.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: The Commission inserted a comma after the word “hygiene” in the opening paragraph pursuant to 1 CMC § 3806(g).

#### **§ 140-50.1-420 Qualifications of Applicants for License to Practice Dentistry**

Any person is eligible to take an examination for a license to practice dentistry in the CNMI upon submission and approval by the Board of the following proof and documentation:

- (a) Proof of graduation from an accredited dental school or college, or proof of licensure and practice of dentistry in another state, territory, or jurisdiction of the U.S.;
- (b) Proof of good moral character;
- (c) Three professional references.

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History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

### § 140-50.1-425 Examinations for Dentistry License

- (a) Any person desiring to obtain a license to practice dentistry in the CNMI, after having complied with the rules and regulations of the Board, shall be entitled to take the dentistry examination, which examination shall be both theoretical and practical.
- (b) The theoretical examination may be written or verbal upon such relevant subjects as the Board may choose.
- (c) The practical examination may include clinical demonstrations of the applicant's skill in dentistry.
- (d) The Board may recognize a certificate granted by the National Board of Dental Examiners in lieu of such examination.
- (e) All persons successfully passing such examination shall be registered as licensed dentists on the Board register, and shall receive a certificate of such registration, which certificate shall be signed by the Chairman and Secretary of the Board.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

### § 140-50.1-430 Specialists' Licenses

- (a) The Board may issue a specialty license authorizing a licensed dentist to announce, hold himself out, and practice as a specialist in a special area of dentistry.
- (b) No licensee may announce or hold himself out to be a specialist or practice as a specialist unless he has successfully completed the special education requirements designated by the Board for qualification in the specialty area.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: The Commission inserted a comma after the word "out" in subsection (a) pursuant to 1 CMC § 3806(g).

### § 140-50.1-435 Limited Licenses

- (a) The Board may grant without examination a limited license to practice dentistry in the CNMI to any graduate of an accredited dental school, who is otherwise qualified, upon request of an accredited dental school or government body of any accredited hospital for such graduate to serve as dental intern in such institution, with such limited duties as may be defined in such request.

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(b) No such limited license shall be granted to any person whose license to practice dentistry has been revoked or to whom a license has been refused.

(c) Such limited license shall not permit the holder thereof to open an office for private practice or to receive compensation for the practice of dentistry except such salary as may be paid by the CNMI or the institution by which he is employed.

(d) Such limited license may be revoked by the Board at any time, and shall expire three months after the date of issuance and may be renewed by the Board for good cause.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

### **§ 140-50.1-440 Permit to Administer General Anesthesia**

(a) No licensed dentist may administer or supervise directly the administration of general anesthesia to dental patients unless he has been issued a permit authorizing him to do so by the Board.

(b) The Board may issue a permit authorizing a licensed dentist to administer or supervise directly the administration of general anesthesia to dental patients under such standards, conditions, and other requirements as the Board may prescribe.

Modified, 1 CMC § 3806(g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsection (b), the Commission corrected the spelling of “requirements.” The Commission inserted a comma after the word “conditions” in subsection (b) pursuant to 1 CMC § 3806(g).

### **§ 140-50.1-445 Dental Hygienists; Qualifications for Applicant for License**

A person is eligible to take an examination for a license to practice dental hygiene in the CNMI who:

- (a) Is of good moral character;
- (b) Is lawfully entitled to remain and work in the CNMI;
- (c) Is a graduate of a school of dental hygiene approved by the Board; and
- (d) Is physically and mentally capable of performing the duties of a hygienist.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

### **§ 140-50.1-450 Dental Hygienists: Recognition of National Certificate**

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- (a) Any person desiring to obtain a license to practice dental hygiene, after having complied with the rules and regulations of the Board under its authority to determine eligibility, shall be entitled to take an examination by the Board upon such subjects as the Board may deem necessary, and a practical examination in dental hygiene, including but not limited to the removal of deposits from, and the polishing of, the exposed surface of the teeth.
- (b) The examination may be practical, as in the opinion of the Board, required to test the qualifications of the applicant.
- (c) In lieu of the written or oral examination or combination of both required by subsection (b), the Board may recognize a certificate from the National Board of Dental Examiners.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsection (c), the Commission corrected the spelling of “of.”

### **§ 140-50.1-455 Dental Hygienists; Places of Practice and Supervision**

The holder of a license to practice dental hygiene may be employed to practice dental hygiene in the CNMI in the following places:

- (a) In the office of any licensed dentist.
- (b) In a clinic or in clinics in the schools of the CNMI as an employee of the health division.
- (c) In a clinic or in clinics in a CNMI institution as an employee of the institution.
- (d) In a clinic established by a hospital approved by the Board, as an employee of the hospital where service is rendered only to patients of the hospital, and under the supervision of a member of the dental staff.
- (e) In other places as specified and approved by the Board.

Modified, 1 CMC § 3806(g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsection (c), the Commission corrected the spelling of “institution.”

### **§ 140-50.1-460 Dental Hygienists and Dental Assistants; Assignment to Perform Tasks; Supervision**

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- (a) A licensed dentist may assign to a person under his employ and supervision, who is a dental hygienist, or dental assistant only such intraoral tasks as may be permitted by regulation of the Board.
- (b) No assignment is permitted that requires:
  - (1) Diagnosis, treatment planning, prescribing of drugs or medications, or authorizing the use of restorative, prosthodontic or orthodontic appliances.
  - (2) Surgery on hard or soft tissues within the oral cavity or any other intraoral procedure that may contribute to or result in an irremediable alteration of the oral anatomy.
  - (3) Administration of general anesthetics other than by an anesthetist or anesthesiologist licensed in the CNMI.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

### **§ 140-50.1-465 Dental Nurses; Qualifications for Applicants for License**

A person is eligible to take an examination for a license to practice as a dental nurse in the CNMI who:

- (a) Is of good moral character;
- (b) Is lawfully entitled to remain and work in the CNMI;
- (c) Is a graduate of a school or college program, in dental nursing, approved by the Board; and
- (d) Is physically and mentally capable of performing the duties of a dental nurse.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

### **§ 140-50.1-470 Dental Nurses; Examination; Exemption**

- (a) A person qualifying to take an examination for dental nurse shall take an examination in any combination of written and oral, and be examined upon such relevant subjects, procedures and techniques of dental nursing as determined by the Board.
- (b) Provided however, that the Board may grant a license without examination to an applicant who has and is presently as of the date of adoption of the regulations in this subchapter, practicing and performing the duties of a dental nurse in the CNMI and who is a graduate of a school or college program in dental nursing approved by the Board.

Modified, 1 CMC § 3806(d).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

**§ 140-50.1-475 Dental Nurses; Duties**

- (a) A dental nurse may perform or exercise:
- (1) Chair-side supportive procedures;
  - (2) Procedures delegated by a licensed dentist when the dentist is physically present and supervises the work;
  - (3) Those procedures, tasks, and skills, studied and acquired by the dental nurse as a part of his/her college curriculum or training and which are or were usually performed by dental nurses in the Pacific Trust Territory prior to the date of adoption of the regulations in this subchapter.
- (b) A dental nurse meeting the requirements of subsection (a)(3) may render care as provided under said subsection without the direct supervision of a dentist.

Modified, 1 CMC § 3806(c), (d), (f), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsection (b), the Commission corrected the cross-reference. The original citation was to § 3-22.1.c, which does not exist. See 11 Com. Reg. at 6403 (Sept. 15, 1989). The Commission changed the citation to § 4-22.1.c, codified at subsection (a)(3) of this section. The Commission inserted a comma after the word “tasks” in subsection (a)(3) pursuant to 1 CMC § 3806(g).

**§ 140-50.1-480 Physical Facilities and Equipment**

A dentist’s office must meet the following minimum standards with regards to physical facilities and equipment:

- (a) The operating theater must be large enough to accommodate the patient adequately on a table or in an operating chair and to permit an operating team consisting of at least three persons to move freely about the patient.
- (b) The operating table or chair must:
- (1) Permit the patient to be placed in a position such that the operating team can maintain the airway;
  - (2) Allow the operating team to alter the patient’s position quickly in an emergency;
  - (3) Provide a firm platform for the management of cardiopulmonary resuscitation.
- (c) The lighting system must be adequate to permit an evaluation of the patient’s skin and mucosal color. An alternate lighting system should derive its power from batteries and be sufficiently intense to permit completion of any operation underway at the time of general power failure.
- (d) Suction equipment must be available that permits aspiration of the oral and pharyngeal cavities. An alternate suction device must be available.
- (e) Ancillary equipment must include:

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- (1) A laryngoscope complete with an adequate selection of blades and spare bulbs;
- (2) Endotracheal tubes and appropriate connectors;
- (3) A tonsillar or pharyngeal suction tip adaptable to all office suction outlets;
- (4) Adequate equipment for establishment of an intravenous infusion;
- (5) A sphygmomanometer and stethoscope\*;
- (6) An endotracheal\* tube type forcep.

\*So in original; probably should be “stethoscope” and “endotracheal.”

Modified, 1 CMC § 3806(g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsection (c), the Commission changed “of permit” to “to permit” to correct a manifest error.

### **Part 500 - Medical Laboratory Regulations**

#### **Subpart A - General**

##### **§ 140-50.1-501 Basis for the Regulations**

The regulations in this part are promulgated pursuant to the authority of 3 CMC chapter 2.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

##### **§ 140-50.1-505 Definitions**

As used in this part, the words and terms defined herein have the following meanings:

- (a) “Hospital base laboratory” is synonymous with “medical laboratory,” and means any facility which uses microbiological, serological, immunohematological, cytological, histological, chemical, hematological, biophysical, toxicological, or other methods for “in-vitro” examination of tissues, secretions or other human body fluids for the purpose of aiding in diagnosis, prevention or treatment of disease, or for the assessment of a disease or infirmity.
- (b) “Service laboratory” means a clinical laboratory making service available directly or indirectly to the general medical profession.
- (c) “Private laboratory” means a clinical laboratory set up for the sole purpose of performing tests on his or her own patients in the private practice of a doctor owner.
- (d) “Proficiency testing” means a continuous program of internal quality control, daily using substances of known content as well as testing unknown samples provided or approved by the



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Board in procedures for which the laboratory is licensed.

(e) “Laboratory director” means a person responsible for administration of the technical and scientific operation of a clinical laboratory, e.g., a licensed director or private physician.

(f) “Medical laboratory technologist” is synonymous with “clinical laboratory technologist” and means one who performs test procedures and has special training in medical laboratory techniques including physical, chemical, and microscopic analysis of body fluids and tissues.

(g) “Active status” means laboratory personnel engaged in clinical laboratory work full time or at least 15 hours per week on a continuing basis.

(h) “Inactive status” means laboratory personnel no longer actively engaged in clinical laboratory work.

(i) “Office laboratory assistant” means a certification title of a technical employee working in a private laboratory, if such employee does not meet the qualification set forth for licensed laboratory personnel.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In the opening paragraph, the Commission changed “sued” to “used” to correct a manifest error. In subsection (a), the Commission moved the comma after “laboratory” inside of the closing quotation mark. In subsection (f), the Commission corrected the spelling of “techniques.”

### **§ 140-50.1-510            General Requirements**

(a) No person, corporation, partnership or other form of business entity may operate, conduct, issue a report from, or maintain a clinical laboratory without first meeting the requirements and applying for license from the Board.

(b) “A service laboratory” shall be licensed by the Board and shall have a licensed laboratory director.

(c) “A private laboratory” shall be required, in lieu of license, to possess a certificate of registration.

(d) “The Board” will make periodic visits to the clinical laboratories to offer consultation on methods, reagents and equipment; to inspect the operation of service for the patient.

Modified, 1 CMC § 3806(f).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: The Commission inserted a comma after the word “partnership” in subsection (a) pursuant to 1 CMC § 3806(g).

**Subpart B - Licensure and Registration**

**§ 140-50.1-515 Application of Laboratory**

(a) Application for and issuance of license. Application for license shall be made on forms provided by the Board, giving the complete information requested regarding physical plant, management, personnel, extent of testing service to be provided, and other pertinent matters requested by the Board.

(b) Fees. Such application shall be accompanied by any required fee.

(c) Site survey. Upon receipt of the application, the laboratory shall be subject to a site survey of the physical plant to determine whether its facilities are adequate and in compliance with Board regulations.

(d) Review of application. The application and accompanying credentials shall be subject to Board review.

Modified, 1 CMC § 3806(g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsection (c), the Commission corrected the spelling of “regulations.”

**§ 140-50.1-520 Renewal**

(a) Term and renewal of license. A license shall be valid for a period of twenty-four calendar months from date of issue, and shall expire on the last day of the twenty-fourth calendar month after issue or renewal. It must be renewed on or before the last day of the twenty-fourth calendar month after issue, except that if the last day of the period of validity falls on a Saturday, Sunday or legal holiday, it must be renewed by the close of business of the next following business day.

(b) Application for renewal shall made in writing, accompanied by a renewal fee. Also, each laboratory shall provide a current list of its technical staff.

(c) Failure to reapply for renewal within one month the expiration date, shall result in termination of license.\*

\*So in original.

(d) Lapse of license for more than three months will require a site survey before the laboratory can be reinstated and resume its services.

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(e) Upon acceptance of the renewal application, the laboratory shall be provided with a renewal license or seal to be affixed to the license.

Modified, 1 CMC § 3806(e), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsection (a), the Commission changed “expect” to “except” to correct a manifest error.

### **§ 140-50.1-525 Display of License**

Validity; display of license. The license issued pursuant to the regulations in this subchapter shall be valid only for the laboratory and premises for which it is issued; and it shall be prominently displayed in such laboratory. Any such license shall become void 30 days after a change in laboratory location, ownership and/or directorship, except that uninterrupted continuation of such license shall be permitted on re-application; and approval of the Board.

Modified, 1 CMC § 3806(d).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

### **Subpart C - Minimum Standards of Medical Laboratories**

#### **§ 140-50.1-530 Performance Standards**

(a) Proficiency. Each laboratory shall participate in such appropriate proficiency test programs as are provided or approved by the Board for the purpose of monitoring level or accuracy of test performance, such as the College of American Pathologists’ quality evaluation program.

(b) Quality Control. There shall be an adequate quality control program in effect, including the use, reference or control reagents and other biological samples, concurrent calibrating standards, and control charts recording standard readings.

(c) Procedure Manuals. Manuals of appropriate, current laboratory methods shall be available at the work stations to which they apply.

Modified, 1 CMC § 3806(g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsections (a) and (b), the Commission corrected the spelling of “level,” “Pathologists” and “recording,” respectively.

**Subpart D - Specimens; Collection, Examination, Referrals**

**§ 140-50.1-535 Specimen Collection**

- (a) No person other than a licensed physician or dentist may manipulate a patient for collection of specimens, except that qualified technical personnel of a laboratory may collect blood, remove stomach contents, perform certain diagnostic skin tests, or collect material for slides and cultures, under sanction of the laboratory operator.
- (b) Needles and syringes at blood drawing stations and in trays shall be kept under security at all times, guarded against unauthorized removal.
- (c) A specimen may be accepted by a laboratory and referred to another laboratory for testing. In all cases, the name of the laboratory doing the work shall be shown in an accession record as well as on the report rendered.
- (d) If the laboratory receives reference specimens from another laboratory, it shall report back to the laboratory submitting the specimens.
- (e) Specimen Records. The laboratory shall maintain a daily accession record of specimens, each of which is numbered or otherwise appropriately identified.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: The Commission created the section title.

**§ 140-50.1-540 Specimen Examination**

- (a) Examination Requests. A laboratory shall examine specimens only at the request of a licensed physician or other person authorized by law to use the findings of laboratory tests and examinations in his practice; and shall report the results of tests only to such persons or their authorized representatives.
- (b) If the patient presents himself at the laboratory for testing, the required lab procedures shall be done only for the purpose or\* reporting to persons authorized by law to use findings of lab tests.
- (c) If only a specimen is received, it shall be accompanied by an authorized written request. Request form shall contain the following information:
  - (1) Name and other identification of person from whom specimen was taken.
  - (2) Name of licensed physician, other authorized person or laboratory that submitted specimen.
  - (3) Date and time specimen was collected for testing.
  - (4) Type of, or specific test(s) required.
- (d) Verbal requests may be accepted in case of emergency, but only from authorized persons.

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\* So in original.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: The Commission created the section title.

### **§ 140-50.1-545      Laboratory Reports to the Requesting Source**

- (a) Content
  - (1) Name and address of reporting laboratory.
  - (2) Date and time specimen received in laboratory.
  - (3) Condition of specimen, if considered unsatisfactory on receipt, e.g., broken, leaked, hemolyzed, turbid.
  - (4) Specific type of test performed.
  - (5) Result of laboratory test along with normal ranges, where applicable.
  - (6) Date of reporting and initials of the technologist or supervisor.
  - (7) No interpretation of test results, diagnosis, prognosis, or suggested treatment may appear on the laboratory report unless the report is made or evaluated by a licensed physician.
- (b) Distribution
  - (1) The laboratory report shall be sent promptly to the respective authorized person who requested the test.
  - (2) No results of lab tests and procedures, or transcripts thereof, shall be divulged to the respective patient or any other party without the consent of the respective physician or authorized agency that requested the tests.
  - (3) Duplicate copies or a suitable record of all laboratory reports shall be filed in the laboratory in a manner which permits ready identification and accessibility.

Modified, 1 CMC § 3806(g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsection (a)(4), the Commission inserted the word “of” to correct a manifest error. The Commission inserted a comma after the word “prognosis” in subsection (a)(7) pursuant to 1 CMC § 3806(g).

### **§ 140-50.1-550      Facilities and Safety**

- (a) Equipment shall be maintained in proper working order, routinely checked, precisely calibrated, and records of such surveillance maintained.
- (b) Work bench space shall be ample, well-lighted, and located convenient to sink, water, gas, suction, and electrical outlets as necessary.
- (c) Laboratory shall be adequately ventilated, with temperatures controlled within the requirements of the tests performed.

- (d) Adequate fire extinguishing equipment shall be present and available.
- (e) Free from physical, chemical, and biological hazards both to the personnel and to the environment.
- (f) Equipment and materials shall be kept sterilized.
  - (1) Before use. Sterile-disposable type blood letting devices, e.g., syringes, needles, lancets, shall not be reused. Reusable type blood letting devices shall be sterilized prior to each use, and they shall be protected to ensure they remain sterile between uses.
  - (2) After use. All microbial materials and cultures shall be treated so as to assure proper decontamination before discard to a public disposal service. All disposable needles and syringes shall be destroyed and rendered useless before discard.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: The Commission inserted commas after the words “well-lighted” and “suction” in subsection (b) and “chemical” in subsection (e) pursuant to 1 CMC § 3806(g).

### **Subpart E - Position Qualifications**

#### **§ 140-50.1-555 Medical Laboratory Technologist**

- (a) License to practice. Every person desiring to practice as a medical laboratory technologist or medical laboratory technician shall, before beginning to practice, procure from the Board a license or permit authorizing such practice.
- (b) Qualifications. A license or permit may be issued to any person who:
  - (1) Has successfully completed a full course of study which meets all academic requirements for a bachelor’s degree in medical technology from an accredited college or university; plus at least 12 months, of training at a school of medical technology approved by the Board; or
  - (2) Has successfully completed three years’ academic study (a minimum of 90 semester hours or equivalent) at an accredited college in a pre-medical technology curriculum; plus at least 12 months of training at a school of medical technology approved by the Board; or
  - (3) Has successfully completed a course of study for a bachelor’s degree in one of the chemical, physical, or biological sciences at an accredited college, along with additional experience and/or training in medical technology, e.g., three years documented experience (rotating through all the disciplines) under a qualified person at the doctorate level; or
  - (4) Lacking in the required academic background, has at least one year formal training in a school of medical technology acceptable to the Board plus at least six years experience in a clinical laboratory, two or more years of which were under the supervision of a person at the doctorate level. Also, he shall have successfully passed all portions of a written oral or performance examination provided or approved by the Board.

Modified, 1 CMC § 3806(e), (f), (g).

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History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsections (b)(2) and (b)(3), the Commission corrected the spelling of “successfully.”

### **§ 140-50.1-560 Medical Laboratory Director**

#### Qualifications

Every person applying for a license to practice as medical laboratory director shall meet at least one of the following requirements:

- (a) Be a physician certified in anatomical and/or clinical pathology by an accrediting body acceptable to the Board, or possess qualifications equivalent to those required for such certification; or
- (b) Be a physician who is certified by an accrediting body such as the American Board of Clinical Chemistry, if acceptable to the Board, and, has had, subsequent to graduation, no less than four years of general clinical laboratory training and experience, at least two years of which were spent acquiring proficiency in one of the medical laboratory specialties with a director at the doctorate level in a medical laboratory of a health department, university or medical research institution; or
- (c) Hold an earned doctorate degree from an accredited institution, with chemical, physical or biological science as his major subject, and shall be certified by the American Board of Microbiology, the American Board of Clinical Chemistry, or other certifying body acceptable to the Board; or
- (d) Be a physician, licensed to practice in the CNMI, whose experience is acceptable to the Board, and/or by examination, is considered as qualified to direct those medical laboratory procedures requested in his application.

Modified, 1 CMC § 3806(e), (f), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In the opening paragraph, the Commission deleted the repeated word “as.” In subsection (d), the Commission corrected the spelling of “those” and “requested.”

### **§ 140-50.1-565 Private Laboratory Operator Qualifications**

- (a) All persons applying for a license to practice as a private laboratory operator must be physician(s)-owner(s), licensed to practice in the CNMI as a M.D., D.O., or D.C.
- (b) A private laboratory must be registered under the physician(s)-owner(s) name(s).

Modified, 1 CMC § 3806(f).

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History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

### Part 600 - Medicine/Surgery Regulations

#### Subpart A General

##### § 140-50.1-601 Definitions

- (a) “Board” means the Medical Profession Licensing Board of the CNMI.
- (b) “Physician” means a person who:
- (1) Is a graduate of an academic program approved by the Board or who has been determined by the Board to be qualified to perform medical services by reason of general education, practical training and experience; and
  - (2) Has received from the Board a license or permit to practice medicine.
- (c) “Practice of medicine” means:
- (1) To diagnose, treat, correct, or prescribe for any human disease, ailment, injury, infirmity, deformity, or other condition, physical or mental, by any means of instrumentality.
  - (2) To apply principles or techniques of medical science in the diagnose or the prevention of any of the conditions listed in subsection (c)(1).
  - (3) To offer, undertake, attempt to do or hold oneself out as able to do any of the acts described in subsections (c)(1) and (c)(2).
  - (4) It is also regarded as practicing medicine within the meaning of this part, if a person uses in connection with his name the words or letters “M.D.,” or any other title, word, letter, or other designation intended to imply or designate him as a practitioner of medicine in any of its branches.
- (d) Specialization and Titling. Although there is overlapping in the subject matter content of certain specializations, the criterion for the establishment of these specializations is based on the differences in the requirements of their function. In the main, authorized specializations represent those specialties and titles approved by the American specialty boards as certified by the Council on Medical Education and Hospitals of the American Medical Association or by the Bureau of Professional Education, Advisory Board for Osteopathic Specialists of the American Osteopathic Association. Each applicant and licensee must obtain Board approval to use specialty designations and titles.
- (e) “Professional incompetence” means lack of ability safely and skillfully to practice medicine, or to practice one or more specified branches of medicine, arising from:
- (1) Lack of knowledge or training;
  - (2) Impaired physical or mental capability;
  - (3) Indulgence in the use excessively of alcohol or any controlled substance; or
  - (4) Any other sole or contributing cause.

Modified, 1 CMC § 3806(c), (d), (g).



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History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: The Commission inserted commas after the words “correct” and “deformity” in subsection (c)(1) pursuant to 1 CMC § 3806(g). In subsection (e), the Commission deleted the word “to” between “ability” and “safety” to correct a manifest error.

### **§ 140-50.1-605 License as Revocable Privilege**

The purpose of licensing physicians is to protect the public health and safety and the general welfare of the people of the CNMI. Any license issued pursuant to this part is a revocable privilege and no holder of such a license acquires thereby any vested right to a license.

Modified, 1 CMC § 3806(d).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

### **§ 140-50.1-610 Applicability of Part**

(a) This part does not apply to:

- (1) The practice of dentistry, chiropractic, podiatry, optometry, faith healing, nursing, veterinary medicine, or hearing aid fitting.
- (2) A medical officer of the armed services or a medical officer of any division or department of the United States in the discharge of his official duties.
- (3) Licensed nurses in the discharge of their duties as nurses.
- (4) Physicians who are called in by the CNMI government, other than on a regular basis, for consultation or assistance to a physician licensed in the CNMI, and who are legally qualified to practice in the place where they reside.

(b) This part does not repeal or affect any statute of the CNMI regulating or affecting any other healing art.

(c) This part is not applicable to:

- (1) Gratuitous services rendered by a person in cases of emergency.
- (2) The domestic and culturally honored (Chamorro, Carolinian, Micronesian) administration of family remedies.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: The Commission inserted a comma after the word “medicine” in subsection (a)(1) pursuant to 1 CMC § 3806(g). In subsection (b), the Commission changed “statue” to “statute” to correct a manifest error.

## **Subpart B - Licensing**

### **§ 140-50.1-615 Practice of Medicine Unlawful Without License or Permit**

It shall be unlawful for any person to practice medicine in the CNMI without first obtaining a license or permit to do so as provided in this part.

Modified, 1 CMC § 3806(d).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

**§ 140-50.1-620 Qualifications of Applicants for Licenses, Permits to Practice Medicine**

(a) Every person desiring to practice medicine shall, before beginning to practice, procure from the Board a license or permit authorizing such practice.

(b) A license or permit may be issued to any person who:

- (1) Is lawfully entitled to remain and work in the CNMI; and
- (2) Has completed one year of postgraduate training approved by all Board\*.

\* So in original.

Modified, 1 CMC § 3806(e), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsection (b), the Commission corrected the spelling of “may.”

**§ 140-50.1-625 Minimum Educational Requirement**

(a) Graduation with degree of doctor of medicine from a U.S. or Canadian medical school listed as approved by the Council on Medical Education and Hospitals, American Medical Association in the list published for the year of the applicant’s graduation; or

(b) Graduation with degree of doctor of medicine or equivalent degree from a medical school other than one covered by subsection (a) above (including foreign schools), provided that the medical education and the medical knowledge acquired therefrom are substantially comparable to that of approved medical schools as provided in subsection (a) above, as determined by the Board.

Modified, 1 CMC § 3806(c), (f), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsection (b), the Commission changed “acquire” to “acquired” to correct a manifest error.

**§ 140-50.1-630 Comparability**

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“Comparability” may be evidenced in one of the following ways:

- (a) Permanent and full and unrestricted license to practice medicine and surgery in a State, the District of Columbia, the Commonwealth of Puerto Rico, a territory of possession of the U.S. or the Pacific Trust Territory of the U.S.; or
- (b) At least one year as an active duty commissioned medical officer in the Medical Corps of the U.S. military service or the U.S. Public Health Service, and has performed unrestricted duties including the treatment of patients; or
- (c) Certification in a specialty by an American Specialty Board approved by the Council of Medical Education and Hospitals of the American Medical Association; or
- (d)(1) Certification by the Education Council for Foreign Medical graduates in its American Medical Qualifying Examination; or
- (2) Having passed the full examination of the National Board of Medical Examiners; or
- (3) As otherwise required by the Board.

Modified, 1 CMC § 3806(e).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

### § 140-50.1-635 Applications; Documentary Evidence of Qualifications

- (a) An applicant for a license to practice medicine who is a graduate of a medical school shall submit to the Board:
  - (1) Proof of graduation from a reputable medical school recognized by the Board. The medical school must have been, at the time of graduation, accredited by the Liaison Committee on Medical Examination, or the Committee for the Accreditation of Canadian Medical Schools, or the Council on Medical Education and Hospitals; or the American Medical Association, or another accrediting entity in the place where the applicant is licensed, recognized by the Board.
  - (2) An affidavit that the applicant is the person named in the proof of graduation and that it was procured without fraud or misrepresentation.
  - (3) A certificate or other document proving a period of one year of postgraduate training, which training must be approved by the Board.
- (b) In addition to the affidavits or proofs required by subsection (a), the Board may take such further evidence and require such other documents or proof of qualifications as it deems proper.

Modified, 1 CMC § 3806(c), (e), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsection (a)(1), the Commission changed “names” to “named” to correct a manifest error.

**§ 140-50.1-640 Examinations**

(a) Before issuance of a license to practice medicine, an applicant who is otherwise eligible for licensure in the CNMI and has paid the fee and provided all required documents shall appear personally and pass satisfactorily a written and/or oral examination as to his qualifications to practice medicine, as required by the Board.

(b) The examination shall be fair and impartial, practical in character, and the questions and tasks shall be designed to discover the applicant's knowledge and ability to practice.

(c) The Board may employ the services of specialists and other professional consultants or examining services in conducting examinations.

Modified, 1 CMC § 3806(g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsection (a), the Commission corrected the spelling of "medicine" and "provided."

**§ 140-50.1-645 Re-examinations**

(a) If an applicant fails in a first examination, he may be reexamined after not less than six months.

(b) If he fails in a second examination, he shall not thereafter be entitled to another examination within less than one year after the date of the second examination, and prior thereto he shall furnish proof satisfactory to the Board of further pertinent study and training following the second examination.

Modified, 1 CMC § 3806(e).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

**§ 140-50.1-650 Applicants Who Are Graduates of Foreign Medical Schools; Proof of Qualifications; Examination**

(a) An applicant for a license to practice medicine who is a graduate of a foreign medical school shall submit to the Board:

(1) Proof he is lawfully entitled to remain and work in the CNMI.

(2) Proof that he has received the degree of doctor of medicine or its equivalent from a medical school recognized by the Educational Commission for Foreign Medical Graduates, or a foreign medical school recognized by the Board.

(3) Proof satisfactory to the Board that he has completed one year of postgraduate training.

(4) Proof that he has passed, with a grade acceptable to the Board, an examination designated by the Board.

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(5) Provided however that an applicant may apply for and take the examination prior to providing the proof required in subsection (a)(1) herein above in this subsection, and in such cases no license shall be granted until the proof in subsection (a)(1) is provided. The Board may take such further evidence and require such further proof of the professional and moral qualifications of the applicant as it deems proper.

(b) Before issuance of a license to practice medicine, the applicant must appear personally before the Board and satisfactorily pass a written or oral examination, or both, as to his qualifications to practice medicine.

Modified, 1 CMC § 3806(c), (e), (f), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: The Commission removed a superfluous apostrophe from the section title pursuant to 1 CMC § 3806(g). In subsection (a)(5), the Commission changed “subsections” to “subsection” to correct a manifest error.

### **§ 140-50.1-655 Reciprocity Certificates and Licenses; Admission with or Without Examination**

The Board may, in its discretion, license an applicant who holds a current and valid license or certificate issued to him by the medical licensing board of the District of Columbia or of any state or territory of the United States, or a certificate as diplomate of the National Board of Medical Examiners of the United States, provided:

(a) That the legal requirements of such medical examining board were, at the time of issuing such license or certificate, in no degree or particular less than those of the CNMI at the time when such license or certificate was issued;

(b) That the applicant is of good moral character and reputation;

(c) That, at the discretion of the Board, the applicant may be required to pass an oral examination; and

(d) That the applicant shall furnish to the Board such other proof of qualifications, professional or moral, as the Board may require.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

### **§ 140-50.1-660 Temporary and Special Licenses; Purposes; Issuance; Revocation**

(a) The Board may:

(1) Issue a temporary license, to be effective not more than three months after issuance, to any physician who is eligible for a permanent license in the CNMI and who also is of good moral character and reputation. The purpose of the temporary license shall be to enable the eligible

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physician to serve as a substitute for some other physician who is duly licensed to practice medicine in the CNMI and who is absent from his practice for reasons deemed sufficient to the Board. A temporary license, issued under the provisions of this subsection, is not renewable and may be revoked at any time for reasons deemed sufficient by the Board.

(2) Issue a special license to a duly licensed physician of an adjoining territory to care for or assist in the treatment of his own patients in association with a physician duly licensed in the CNMI who shall have the primary care of the patients. A special license, issued under the provisions of this subsection, may be revoked at any time for reasons deemed sufficient to the Board.

(3) Issue a special license to a duly qualified physician of another state to practice medicine in the CNMI for a specified period of time and for specified purposes.

(b) Every physician who is licensed under the provisions of subsection (a) and who accepts the privilege of practicing medicine in the CNMI under the provisions of the license shall be deemed to have given his consent to the revocation of the license at any time, without notice or hearing, for reasons deemed sufficient by the Board.

Modified, 1 CMC § 3806(c), (f), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsection (a)(1), the Commission corrected the spelling of “physician” and “reasons.” In subsection (b), the Commission corrected the spelling of “sufficient.”

### **§ 140-50.1-665 Limited Licenses for Resident Physicians in Postgraduate Programs of Clinical Training**

(a) The Board may issue to a qualified applicant a limited license to practice medicine as a resident physician in a postgraduate program of clinical training if:

(1) The applicant is a graduate, of an accredited medical school in the United States or Canada or is a graduate of a foreign medical school recognized by the Board and:

(i) Has received the standard certificate of the Educational Commission for Foreign Medical Graduates; or

(ii) Has completed one year of supervised clinical training approved by the Board; and

(2) The Board approves the program of clinical training, and provided that the medical school or other institution sponsoring the program provides the Board with written confirmation that the applicant has been appointed to a position in the program.

(b) The Board may issue such a limited license for not more than one year but may renew the license.

(c) The holder of such a limited license may practice medicine only in connection with his studies as a resident physician and shall not engage in the private practice of medicine.

(d) A limited license granted under the authority of this section may be revoked by the Board at any time for reasons deemed sufficient by the Board.

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Modified, 1 CMC § 3806(e), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsections (a)(1), (a)(2) and (b), the Commission corrected the spelling of “Canada,” “Board” and “renew,” respectively.

### **§ 140-50.1-670 Financial Responsibility**

[Repealed.]

History: Amdts Adopted 29 Com. Reg. 26432 (Feb. 15, 2007); Amdts Proposed 28 Com. Reg. 26314 (Nov. 30, 2006); Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In February 2007, § 140-50.1-670 was repealed.

### **§ 140-50.1-675 Continuing Medical Education**

Licenses may be required to comply with continuing medical education requirements. The Board may require physicians and medical officers who are licensed under this part to comply with continuing medical education requirements adopted by the Board as a prerequisite to annual registration. As a minimum, persons licensed under this part must annually complete 10 hours of category I credits and 30 hours of credits from categories I, II, III, IV and/or V as described by the American Medical Association and approved by the Board.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

### **Subpart C - Physicians’ Assistants**

[Repealed. See Commission Comment.]

History: Amdts Adopted 21 Com. Reg. 17019 (Dec. 15, 1999) (repealing former subpart C); Amdts Proposed 21 Com. Reg. 16838 (July 23, 1999); Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: The 1999 amendments promulgated a new chapter 11, codified at part 1200, regulating physicians’ assistants and repealed this subpart. See part 1200.

### **Part 700 - Optometrists and Optometry**

#### **§ 140-50.1-701 Definitions**

For the purposes of this part, the following terms shall have the meanings set forth below:

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- (a) “The Board” means: the Medical Profession Licensing Board of the CNMI.
- (b) “Optometry” means: the care and services provided by or under the direction and supervision of an optometrist licensed pursuant to the regulations in this part.
- (c) “Optometrist” means: a person who has met all the conditions of the regulations in this part for licensure, and is licensed in the CNMI to practice optometry.
- (d) “Practice of optometry” means:
- (1) The examination or refraction of the human eye and its appendages and the employment of any objective or subjective means or methods other than surgery for the purpose of diagnosing or treating any visual, muscular, neurological, or anatomical anomalies or diseases of the eye.
  - (2) The employment of any means for the measurement of the powers of vision or the adaptation of lenses or prisms for the aid thereof, or the possession of testing appliances for the purpose of the measurement of the powers of vision.
  - (3) The prescribing of contact lenses and spectacle lenses for, or the fitting or adaptation of contact and spectacle lenses to, the human eye.
  - (4) Prescribing or directing the use of any instrument or device to train the visual system or correct any abnormal condition of the eye or eyes and the prescribing, fitting, or employment of any lens, prism, frame, or mountings for the correction or relief of or aid to the visual function.
  - (5) Performance of optometric procedures which do not require an incision or the use of a therapeutic laser.
  - (6) The prescription of legend drugs and controlled substances, except those listed in schedules I and II as described in the United States Code, title 21, § 812, subject to the following limitations:
    - (i) Schedule III pharmaceutical agents shall be limited to an initial prescription, the duration of which does not exceed 48 hours, and may be extended only after consultation with an ophthalmologist. Prescriptions for controlled substances may not exceed in number the recommended dosage for the duration of the prescription, and may not be refilled without further examination and follow-up care. Optometrists shall not maintain inventories of controlled substances for dispensing or administering.
    - (ii) Optometrists may prescribe only for the treatment of conditions of the eye and adenexa.
  - (7) Optometry shall not include the performing of cataract surgery, radial keratometry, cryosurgery, or laser surgery including laser procedures for correction of refractive error.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 21 Com. Reg. 17010 (Dec. 15, 1999) (repealing and replacing part 700); Amdts Proposed 21 Com. Reg. 16914 (Oct. 15, 1999); Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: The 1999 amendments repealed and replaced part 700 in its entirety with extensive revisions. See § 140-50.1-740.

The Commission inserted commas after the words “fitting” and “frame” in subsection (d)(4) pursuant to 1 CMC § 3806(g). The Commission inserted quotation marks around terms defined.

### **§ 140-50.1-705 Practice of Optometry; License Required**



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(a) License to Practice:

(1) No person or persons shall open an office for the purpose of practicing optometry in the CNMI, or announce to the public in any way an intention to practice optometry in the CNMI, without first having obtained a license from the Board.

(2) No person or persons, except a licensed optometrist or optometrists under this part whose licenses have not been revoked or lapsed, shall hold himself out by the use of any sign, newspaper, advertisement, pamphlet, circular, or any other means as qualified to practice optometry.

(3) No person shall use the name or title “optometrist,” “optometric physician,” or “doctor of optometry,” or use the phrase “eye clinic,” “eye institute,” “eye doctor,” or any other name, title, or phrase which would lead the public to believe that such person is engaging in the practice of optometry unless such person is licensed as an optometrist under this part. This subsection shall not be construed to prohibit an ophthalmologist licensed to practice medicine in the CNMI from using the terms “eye clinic,” “eye institute,” or “eye doctor,” however any term or phrase containing the words “optometrist,” “optometric,” or “optometry” may not be used by ophthalmologists.

(4) No person or persons, except a licensed optometrist or optometrists under this part whose licenses have not been revoked or lapsed, or a physician and surgeon licensed to practice in the CNMI, shall have possession of any trial lenses, trial frames, graduated test cards, or other appliances or instruments used in the practice of optometry for the purpose of rendering assistance to patrons in the selection of contact lenses, lenses, or eyeglasses, or sell ophthalmic lenses or replace broken contact lenses or lenses in eyeglasses except upon the prescription of a regularly licensed optometrist, or a physician and surgeon licensed to practice in the CNMI.

(5) No person not licensed under this part or who has not paid the annual renewal fee as provided in this part, shall practice optometry as defined in this part.

(b) Education: Every applicant for licensure to practice optometry must attain the degree of doctor of optometry (O.D.) or its equivalent upon completion of a program in optometry from a college or university acceptable to the Board, whose program is accredited by the American Optometric Association’s Council on Optometric Education.

(c) Examination: Applicants for licensure by examination must pass the National Board of Examiners in Optometry (NBEO) examination, parts I, II, and III. Credit will also be given to candidates who have passed parts I and II of the NBEO and the NERCOATS examination.

(d) Qualifications for Licensure by Reciprocity: Applicants who meet all the requirements of the Board may be granted a license without examination if they are licensed to practice optometry in another state whose requirements for certification are substantially equivalent to those required in the CNMI. In order to be eligible for reciprocity, the optometrist must possess an unlimited license for the full scope of practice allowed for optometrists in the state of licensure.

(e) Passing of Treatment and Management of Ocular Disease Examination: All applicants for licensure (by examination or by reciprocity) must submit proof of passing the examination on the treatment and management of ocular disease (TMOD) which is administered by the NBEO. Passing part III of the NBEO examination (which includes the TMOD) will satisfy this

requirement.

(f) Continuing Education Requirements: In order to renew the license, the optometrist must submit proof that he/she has, during the preceding twenty-four months, received a minimum of fifty clock hours of continuing education from sources approved by the Board. Approved courses include those approved by the Council on Optometric Practitioner Education (COPE), or those sponsored by the American Optometric Association, the American Academy of Optometry, the American Academy of Ophthalmology, or any school of optometry or school of medicine in the United States that is recognized by the Board. Courses relating to business or practice management shall not be counted toward this requirement.

Modified, 1 CMC § 3806(d), (e), (f), (g).

History: Amdts Adopted 21 Com. Reg. 17010 (Dec. 15, 1999) (repealing and replacing part 700); Amdts Proposed 21 Com. Reg. 16914 (Oct. 15, 1999); Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: See § 140-50.1-740 and the commission comment to § 140-50.1-701.

In subsection (a)(3), the Commission moved the commas inside of the closing quotation marks.

### **§ 140-50.1-710 Application for Licensure**

(a) An application for licensure as an optometrist must be made on forms supplied by the Board. The application must state:

- (1) The date and place of birth as well as the various places of employment since the date of graduation from high school.
- (2) The applicant's educational background, including schools attended, length of time in attendance at each, and whether or not the applicant is a graduate of those schools.
- (3) Whether or not the applicant has ever applied for a license or certificate as an optometrist in another place and, if so, when and where and whether the application was approved.
- (4) The applicant's practical training and experience.
- (5) Whether or not the applicant has ever had a license or certificate as an optometrist revoked, restricted, or suspended or whether proceedings involving such a revocation, restriction, or suspension have ever been instituted against the applicant.
- (6) Whether the applicant has ever been convicted of a felony or an offense involving moral turpitude.
- (7) Whether the applicant has ever been addicted to the use of narcotics, controlled substances, or alcohol.
- (8) Whether the applicant has ever been investigated for, charged with, or convicted for the use or illegal sale or dispensing of controlled substances.

(b) The application must include the address of the applicant's practice or intended practice and the address of any satellite offices.

(c) The applicant must submit to the Board proof of:

- (1) Completion of training as an optometrist in a program accredited by the American Optometric Association's Council on Optometric Education.

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- (2) Passage of parts I, II, and III of the National Board of Examiners in Optometry (NBEO) examination, or passage of parts I and II of the NBEO and the NERCOATS examination.
- (d) The Board may require other documents or proof of qualifications, as it may deem proper.
- (e) Each application must be signed by the applicant and sworn to before a notary public or other officer authorized to administer oaths.
- (f) The applicant must submit the application to the Secretary of the Board at least 30 days before the next meeting of the Board.
- (g) All required fees must accompany the application.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 21 Com. Reg. 17010 (Dec. 15, 1999) (repealing and replacing part 700); Amdts Proposed 21 Com. Reg. 16914 (Oct. 15, 1999); Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: See § 140-50.1-740 and the commission comment to § 140-50.1-701. The Commission inserted commas after the words “each” in subsection (a)(2) and “restricted” and “restriction” in subsection (a)(5) pursuant to 1 CMC § 3806(g).

### **§ 140-50.1-715 Rejection of Application**

An application may be rejected if it appears that:

- (a) An applicant for licensure as an optometrist is not qualified to perform the duties and responsibilities of an optometrist as established by the Board pursuant to § 140-50.1-701; or
- (b) Is not of good moral character or reputation; or
- (c) Any credential submitted is false; or
- (d) The application is not made in proper form or other deficiencies appear in it.

Modified, 1 CMC § 3806(c).

History: Amdts Adopted 21 Com. Reg. 17010 (Dec. 15, 1999) (repealing and replacing part 700); Amdts Proposed 21 Com. Reg. 16914 (Oct. 15, 1999); Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: See § 140-50.1-740 and the commission comment to § 140-50.1-701.

### **§ 140-50.1-720 Term of License**

The license of an optometrist shall be valid for a period of two years.

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Modified, 1 CMC § 3806(e).

History: Amdts Adopted 21 Com. Reg. 17010 (Dec. 15, 1999) (repealing and replacing part 700); Amdts Proposed 21 Com. Reg. 16914 (Oct. 15, 1999); Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: See § 140-50.1-740 and the commission comment to § 140-50.1-701.

### **§ 140-50.1-725          Renewal of License**

The license of an optometrist shall be renewed through an application signed by the optometrist accompanied by all required fees. Additional documents may be required if needed to establish that the applicant continues to meet all requirements for licensure.

History: Amdts Adopted 21 Com. Reg. 17010 (Dec. 15, 1999) (repealing and replacing part 700); Amdts Proposed 21 Com. Reg. 16914 (Oct. 15, 1999); Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: See § 140-50.1-740 and the commission comment to § 140-50.1-701.

### **§ 140-50.1-730          Grounds for Revocation of License**

The license of any optometrist may be revoked by the Board when, after notice and hearing in accordance with the provisions of the regulations in this part, it finds that the optometrist engaged in any of the following activities:

- (a) Providing services beyond the scope of the practice of optometry as defined in this part.
- (b) Practicing or attempting to practice the profession of optometry while under the influence of intoxicating beverages or narcotic drugs.
- (c) Giving or receiving rebates.
- (d) Gross negligence or repeated or continuing acts of negligence or incompetence in the practice of optometry.
- (e) Any conduct or practice, including incompetency, which constitutes a danger to the health, welfare, or safety of patients or the public.
- (f) Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of the profession of optometry.
- (g) Refusing to divulge to the Board upon demand the means, methods, devices, or instrumentalities used for optometric examination or therapy.
- (h) Failing to comply with a Board order or consent agreement.
- (i) Fraud, forgery, unsworn falsification, false swearing, or perjury involving a matter before

the Board or a written instrument submitted to the Board.

(j) Willfully and without legal justification failing to furnish in a timely manner information which is necessary for the Board to conduct an investigation under this part and which has been requested or subpoenaed by the Board.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 21 Com. Reg. 17010 (Dec. 15, 1999) (repealing and replacing part 700); Amdts Proposed 21 Com. Reg. 16914 (Oct. 15, 1999); Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: See § 140-50.1-740 and the commission comment to § 140-50.1-701. The Commission inserted commas after the words “welfare” in subsection (e), “devices” in subsection (g), and “swearing” in subsection (i) pursuant to 1 CMC § 3806(g).

### **§ 140-50.1-735 Notice of Charges, Hearing, Service of Notice**

Before the Board revokes the license of an optometrist, the Board shall give the optometrist a written notice specifying the charges made against the optometrist and stating that the charges will be heard at the time and place indicated in the notice.

History: Amdts Adopted 21 Com. Reg. 17010 (Dec. 15, 1999) (repealing and replacing part 700); Amdts Proposed 21 Com. Reg. 16914 (Oct. 15, 1999); Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: See § 140-50.1-740 and the commission comment to § 140-50.1-701.

### **§ 140-50.1-740 Prior Regulations Superseded**

The Optometry Rules and Regulations codified in this part shall supersede the prior Optometry Rules and Regulations published at chapter VII, volume 11, no. 9, page 6427 of the Commonwealth Register, dated September 15, 1989.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 21 Com. Reg. 17010 (Dec. 15, 1999) (repealing and replacing part 700); Amdts Proposed 21 Com. Reg. 16914 (Oct. 15, 1999).

## **Part 800 - Pharmaceutical Regulations**

[Repealed. See Commission Comment.]

History: Adopted 21 Com. Reg. 16711 (Apr. 19, 1999) (repealing chapter VIII of the 1989 regulations); Proposed 20 Com. Reg. 16330 (Dec. 15, 1998). Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: The 1999 Importation, Storage, Sales, and Distribution of Drugs and Pharmaceutical Products Rules and Regulations repealed chapter VIII of the Licensing of Health Care Professionals Regulations, codified at part 800. See NMIAC, title 140, subchapter 50.2 and NMIAC § 140-50.2-1110.

**Part 900 - Physical Therapy Regulations**

**§ 140-50.1-901 Definitions**

For the purposes of this part, the following terms shall have the meanings set forth below:

- (a) “The Board” means the Medical Profession Licensing Board of the CNMI.
- (b) “Physical therapy” means the care and services provided by or under the direction and supervision of a physical therapist licensed pursuant to the regulations in this part.
- (c) “Physical therapist” means a person who has met all the conditions of these regulations for licensure, and is licensed in the CNMI to practice physical therapy.
- (d) “Practice of physical therapy” means:
  - (1) Examining and evaluating patients with mechanical, physiological and developmental impairments, functional limitations, and disability or other health-related conditions in order to determine a treatment diagnosis, prognosis, and planned therapeutic intervention.
  - (2) Alleviating impairments and functional limitations by designing, implementing, and modifying therapeutic interventions that include, but are not limited to:
    - (i) Therapeutic exercise (including aerobic conditioning);
    - (ii) Functional training in self care and community or work reintegration;
    - (iii) Manual therapy techniques including: soft tissue and joint mobilization and manipulation, therapeutic massage;
    - (iv) Utilization of assistive and adaptive devices and equipment;
    - (v) Bronchopulmonary hygiene;
    - (vi) Debridement and wound care;
    - (vii) Physical agents, mechanical and electrotherapeutic modalities, acupuncture, testing of neuromuscular performance;
    - (viii) Patient-related instruction.
  - (3) Applying topical and aerosol medications as part of the practice of physical therapy as defined herein.
  - (4) Preventing injury, impairments, functional limitations, and disability, including the maintenance of fitness, health, and quality of life in all age populations.
  - (5) Engaging in consultation, clinical research, and education of the general public.
- (e) “Assistive personnel”: shall include the following individuals who provide assistance to physical therapists in the regular course of the practice of physical therapy:
  - (1) “Physical therapist assistant”: means a licensed person who has met the conditions for licensure as a physical therapist assistant pursuant to the regulations in this part and who performs physical therapy procedures and related tasks that have been selected and delegated by the supervising physical therapist.
  - (2) “Physical therapy aide”: means a non-licensed person, trained under the direction of a physical therapist, who performs designated routine physical therapy tasks under the on-site supervision of a licensed physical therapist.

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(3) “Other assistive personnel”: means other trained or educated health care providers not defined in subsections (e)(1) or (e)(2) above, who perform specific tasks related to physical therapy under the on-site supervision of a physical therapist.

(f) “On-site supervision”: means the supervising physical therapist must be:

(1) Continuously on-site and present in the department or facility where the physical therapy services are being provided.

(2) Immediately available to assist the person being supervised in the services being performed.

(3) Continually involved in appropriate aspects of each treatment session in which a component of treatment has been delegated.

(g) “Medical provider”: means a referring medical doctor, physician’s assistant, nurse practitioner, dentist, osteopath, or podiatrist holding a current and valid license by the Board.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 22 Com. Reg. 17486 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17056 (Mar. 20, 2000); Amdts Adopted 21 Com. Reg. 16862 (July 23, 1999); Amdts Proposed 21 Com. Reg. 16598 (Mar. 18, 1999).

Commission Comment: The 2000 amendments readopted and republished part 900 in its entirety. The Commission, therefore, cites the 2000 amendments in the history sections throughout this part. The Commission inserted quotation marks around terms defined. The 2000 amendments amended subsections (a) through (c).

### § 140-50.1-905 Practice of Physical Therapy; License Required

(a) License to practice: No person shall practice physical therapy or in any manner hold himself or herself out to be engaged in the practice of physical therapy, or designate himself or herself as a physical therapist, unless duly licensed as a physical therapist by the Board accordance with the regulations in this part.

(b) Qualifications for licensure by reciprocity:

(1) Every applicant for a license to practice physical therapy must:

(i) Be of good moral character;

(ii) Be a graduate of a program accredited by the American Physical Therapy Association or the Canadian Physiotherapy Association leading to a degree in physical therapy;

(iii) Have completed the application for licensure in the CNMI;

(iv) Have successfully passed the Physical Therapy Licensing Examination in the United States or Canada;

(v) Also possess a valid license in a state of the United States or a province of Canada.

(2) The Board shall certify and approve all credentials of the applicant for a physical therapy license prior to issuing a license.

(c) Application by foreign-educated physical therapists: Any person educated, trained, and licensed in a jurisdiction outside the United States or Canada must have successfully completed the Physical Therapy Licensing Examination in the United States or Canada, and hold a current license to practice physical therapy in a state of the United States or a province of Canada in

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order to obtain a license in the CNMI.

(d) Qualifications for licensure as a physical therapist assistant:

(1) Every applicant for a license to practice as a physical therapist assistant must:

(i) Be of good moral character;

(ii) Be graduate of a physical therapist assistant program accredited by the American Physical Therapy Association;

(iii) Have successfully completed the application for licensure in the CNMI.

(iv) Have successfully completed the Physical Therapist Assistant Licensure Examination in the United States and must hold a license as a physical therapist assistant in a state of the United States or a province of Canada.

(2) The Board shall certify and approve applicants for physical therapist assistant license after all application processes are completed.

(e) Application fees for licensure and certification: An applicant for licensure as a physical therapist or physical therapist assistant shall file a written application on forms provided by the Board. A non-refundable application fee shall accompany the completed written application. Fees shall be established by the Board.

(f) Renewal of physical therapist or physical therapist assistant license:

(1) The license of the physical therapist or physical therapist assistant shall be valid for two years.

(2) The license shall be renewed after the payment of fees provided the individual has complied with the regulations in this part for the practice of the physical therapy profession.

(3) The Board shall encourage ongoing competency to practice physical therapy by requiring, for renewal of license, at least one continuing education course per year. In-service training, home study courses, and other acceptable activities can be substituted for the actual attendance at a course.

(g) Exceptions to the practice of physical therapy with a license: The following persons shall be exempt from licensure as physical therapists under the regulations in this part:

(1) Any person pursuing a course of study leading to a degree as a physical therapist in an entry-level educational program approved by the American Physical Therapy Association, or the Canadian Physiotherapist Association. He/she shall at all times be under the on-site supervision of a physical therapist who shall be legally and professionally responsible for the student's performance.

(2) Physical therapists practicing in the United States Armed Services, United States Public Health Service, or Department of Veterans Affairs as based on the requirements under federal law for state licensure of health care providers.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 22 Com. Reg. 17486 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17056 (Mar. 20, 2000); Amdts Adopted 21 Com. Reg. 16862 (July 23, 1999); Amdts Proposed 21 Com. Reg. 16598 (Mar. 18, 1999).

Commission Comment: The 2000 amendments amended subsection (d)(1)(iv).



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The Commission inserted a comma after the word “service” and corrected the spelling of “Veterans Affairs” in subsection (g)(2) pursuant to 1 CMC § 3806(g).

### § 140-50.1-910      **The Practice of Physical Therapy; Scope of Practice**

(a) Responsibilities of the licensed physical therapist: Regardless of the setting in which physical therapy services are provided, the following responsibilities must be performed solely by a licensed physical therapist:

(1) Only a licensed physical therapist shall interpret a patient referral from a medical provider.

(2) The physical therapist shall complete the initial examination, provide problem identification, planning, implementation, and supervision of the therapeutic program; reevaluate and change that program; and maintain adequate records of the case, including progress reports.

(3) When the patient’s needs are beyond the scope of the physical therapist’s expertise, or when additional services beyond physical therapy are indicated, the patient shall be so informed and assisted in identifying a qualified provider. As a courtesy, the referring medical provider should be notified of the referral of the patient to a different provider.

(4) If a referring medical provider prescribes a treatment program, alteration of that program, or extension of physical therapy services beyond that program should be undertaken only after consultation with the referring medical provider.

(5) When the physical therapist assesses that a patient will no longer benefit from physical therapy services, he/she shall so inform the patient and the referring medical provider. A physical therapist shall avoid over-utilization of physical therapy services.

(6) The physical therapist shall not initiate or continue services that will not result in beneficial outcomes or that are contraindicated.

(7) Regardless of practice setting, the physical therapist shall maintain the ability to make independent professional judgments.

(8) The physical therapist shall be responsible for the establishment of discharge plans and documentation of discharge summary or status.

(9) The physical therapist shall provide for utilization review of his or her services, by self review, following established guidelines of practice.

(10) The physical therapist shall participate in quality assurance activities, by peer review or self assessment.

(11) The physical therapist shall adhere to the recognized standards of ethics of the physical therapy profession.

(b) Supervision of assistive personnel:

(1) The physical therapist shall assure the competence of assistive personnel to perform assigned tasks.

(2) The physical therapist shall not delegate to a less qualified person any activity which requires the unique skill, knowledge, and judgment of a physical therapist.

(3) In establishing a treatment protocol for the physical therapist assistant, the physical therapist shall identify and document precautions, special problems, contraindications, goals, anticipated progress, and plans for reevaluation.

(4) If the treatment of a patient is delegated to a physical therapist assistant, the physical therapist shall reevaluate and provide treatment to the patient at least every 5<sup>th</sup> visit, or, if the

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treatment is performed more than once a day, reevaluation must be performed at least once per week.

(5) The physical therapist shall designate or establish channels of written and oral communication with the physical therapist assistant.

(6) The physical therapist shall determine which tasks in the plan of care for a patient requires the expertise and decision making capacity of the physical therapist and which can be delegated to assistive personnel.

(7) The physical therapist shall be responsible for the delegation and instruction of the services to be rendered by the physical therapist assistant, or other assistive personnel, including, but not limited to: specific treatment programs, precautions, special problems, and contraindicated procedures.

(c) Scope of practice for physical therapist assistant: The physical therapist shall at all times be professionally and legally responsible for patient care by the physical therapist assistant. The physical therapist assistant may provide physical therapy services pursuant to the following guidelines:

(1) The physical therapist assistant may not initiate or alter a treatment program without prior evaluation by and approval from the supervising physical therapist.

(2) The physical therapist assistant may, with prior approval by the supervising physical therapist, adjust a specific treatment procedure in accordance with changes in patient status.

(3) The physical therapist assistant may not interpret data beyond the scope of his/her physical therapist assistant education.

(4) The physical therapist assistant may respond to inquiries by patients knowledge.\*

\*So in original; see the commission comment to this section.

(5) The physical therapist assistant shall refer inquiries regarding patient prognosis to a supervising physical therapist.

(6) The physical therapist assistant shall report all adverse patient responses to any part of the physical therapy program to the supervising physical therapist.

(7) The physical therapist assistant may refuse to carry out treatment procedures that he or she believes are not in the best interests of the patient. Furthermore, he or she shall discontinue immediately any treatment procedures which, within his or her judgment, are harmful to the patient.

(8) The physical therapist assistant shall not hold himself or herself out as a physical therapist.

(d) Scope of practice for physical therapy aides: The physical therapist shall be professionally and legally responsible for patient care given by aides. A physical therapist may delegate to the physical therapy aide selected acts, tasks, or procedures which fall within the scope of physical therapy practice, but do not exceed the aide's education or training, pursuant to the following guidelines:

(1) A physical therapy aide shall perform patient care activities under the on-site supervision of a licensed physical therapist.

(2) The physical therapy aide shall not hold himself or herself out as a physical therapist.

(3) The physical therapy aide shall report all adverse patient responses to any part of a

physical therapy program to the supervising therapist.

(4) The physical therapy aide shall refer inquiries regarding patient prognosis to a supervising physical therapist.

(e) Exceptions: Nothing in the regulations in this part shall be construed as restricting persons licensed under any other law of the CNMI from engaging in the profession or practice for which he/she is licensed.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 22 Com. Reg. 17486 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17056 (Mar. 20, 2000); Amdts Adopted 21 Com. Reg. 16862 (July 23, 1999); Amdts Proposed 21 Com. Reg. 16598 (Mar. 18, 1999).

Commission Comment: The 2000 amendments amended subsections (c)(4) and (e). The change to subsection (c)(4) was probably in error. Compare 22 Com. Reg. at 17069 (“The physical therapist assistant may respond to inquiries by patients knowledge.”) and 21 Com. Reg. at 16869 (July 23, 1999) (“The physical therapist assistant may respond to inquiries by patients regarding their status within the physical therapist assistant’s scope of knowledge.”)

The Commission inserted a comma after the word “program” in subsection (a)(4) pursuant to 1 CMC § 3806(g).

#### **§ 140-50.1-915 Use of Titles; Restrictions**

(a) Use of “physical therapy”: It shall be unlawful for any person or for any business entity, its employees, agents, or representatives to use in connection with his/her name or business activity the words “physical therapy,” “physical therapist,” “physiotherapy,” “physiotherapist,” “registered physical therapist,” the letters “PT,” “LPT,” “RPT,” “MPT,” “DPT,” or any other words, abbreviations, or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied, including the billing of services labeled as physical therapy, unless such services are provided by or under the direction of a physical therapist licensed in accordance with the regulations in this part.

(b) Use of “PT”: A licensed physical therapist shall use the letters “PT” or “RPT” in connection with his/her name or place of business to denote his/her licensure hereunder, or the proper letter designation indicating his/her level of professional degree (e.g. MPT, DPT).

(c) Use of “physical therapist assistant”: No person shall use the title “physical therapist assistant,” “physiotherapist assistant,” “physical therapy assistant,” or use the letters “PTA” in connection with his/her name, or any other words, abbreviations, or insignia indicating or implying directly or indirectly that he/she is a physical therapist assistant unless he/she has graduated from an accredited physical therapist assistant education program approved by the American Physical Therapy Association and has met the requirements of the regulations in this part.

(d) Use of “physical therapy aide”: No person shall use the title “physical therapy aide” or “physiotherapy aide” or any combination of words to imply directly or indirectly that he/she is a physical therapy aide unless he/she is under the on-site supervision of a licensed physical therapist in accordance with the regulations in this part.

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Modified, 1 CMC § 3806(d), (f), (g).

History: Amdts Adopted 22 Com. Reg. 17486 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17056 (Mar. 20, 2000); Amdts Adopted 21 Com. Reg. 16862 (July 23, 1999); Amdts Proposed 21 Com. Reg. 16598 (Mar. 18, 1999).

Commission Comment: In subsection (c), the Commission moved the commas inside of the closing quotation marks.

### **Part 1000 - Radiology Laboratory Regulations**

#### **§ 140-50.1-1001 Scope**

This part establishes requirements, binding upon registrants, for use of x-ray equipment by or under the supervision of a person authorized by and licensed under Commonwealth laws to engage in the healing arts or veterinary medicine. The provisions of this part are in addition to other applicable provisions of the regulations in this subchapter.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

#### **§ 140-50.1-1005 License to Practice**

All persons desiring to practice in the CNMI as a radiologic technologist or radiologic technician, shall, before beginning to practice, procure from the Board a license authorizing such practice.

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

#### **§ 140-50.1-1010 Qualifications**

A license may be issued to any person who:

- (a) Has completed a two years training course in diagnostic radiologic technology or radiotherapeutic technology which has been approved by the Board, the American Register of Radiologic Technologist, or the American Medical Association.
- (b) Shows evidence acceptable to the Board of possessing knowledge of such subjects as: radiation protection standards and practices; basic human anatomy and physiology; basic physics including concepts of energy, electric power and circuits, and the properties of X-rays; radiographic exposure techniques; histology.
- (c) Has one year of experience in one or more combination of types of experience such as:
  - (1) Training and experience as a radiologic technologist, nuclear medicine technician, diagnostic ultrasound technician, radiologic technician.
  - (2) Training and experience as a practical nurse, nurses aid, nurses assistant, student nurse, or

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registered nurse. A medical aid, medical technician, laboratory technician, laboratory assistant, or similar type of position in a medical, clinical, college, or industrial laboratory.

(3) A radiology technician in a non-medical capacity.

(d) Shows service; education and training in the armed forces medical corps as an X-ray technician.

Modified, 1 CMC § 3806(e).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: The Commission inserted a comma after the word “college” in subsection (c)(2) pursuant to 1 CMC § 3806(g).

### Part 1100 - Clinical Psychology Regulations

#### § 140-50.1-1101 Definitions

As used in the regulations in this part.

(a) “Clinical psychology” means a sub-specialty in psychology which is primarily concerned with assessing and alleviating emotional, mental, and behavioral disorders in a hospital, institution, or other clinical setting.

(b) “Practice of clinical psychology.”

(1) A person represents himself to be a clinical psychologist when he holds himself out to the public by any title or description of services incorporating the words “clinical psychology,” “clinical psychologist,” and/or offers to render or renders services as defined below to individuals, groups, organizations, or the public for a fee, monetary or otherwise.

(2) The practice of clinical psychology within the meaning of the regulations in this part is defined as rendering individuals, organizations, or the public any psychological service involving the application of principles, methods, and procedures of understanding, predicting, and influencing behavior, such as the principles pertaining to learning, perception, motivation, thinking, emotions, and interpersonal relationships; the methods and procedures of interviewing, counseling, and psychotherapy; of constructing, administering, and interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristic emotion, and motivation, and of assessing public opinion.

(3) The application of said principles and methods includes, but is not restricted to: diagnosis, prevention, and amelioration of adjustment problems and emotional and mental disorders of individuals and groups; hypnosis; educational and vocational counseling; personnel selection and management; the evaluation and planning for effective work and learning situations; advertising and market research; and the resolution of inter-personal and social conflicts.

(4) “Psychotherapy” within the meaning of the regulations in this part means the use of learning, conditioning methods, and emotional reactions, in a professional relationship, to assist a person or persons to modify feelings, attitudes, and behavior which are intellectually, socially, or

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emotionally mal-adjustive or ineffectual;

(5) “Fee” means any charge, monetary or otherwise, whether paid directly or on a prepaid capitation basis by a third party, or a charge assessed by a facility for services rendered.

(6) “Clinical psychologist” means a person who has received training in clinical psychology from an accredited school in the U.S. and has completed the internship requirements.

(i) “Training” means doctoral level training in clinical psychology at an accredited institution of higher learning in the U.S. Doctoral level training shall require each student to demonstrate competence in all of the following areas:

(A) Biological basis of behavior, physiological and comparative psychology, neuropsychology, sensation and perception, and psychopharmacology.

(B) Cognitive-affective basis of behavior, learning, thinking, motivation, and emotion.

(C) Social basis of behavior, social psychology, group process, organizational and systems theories.

(D) Research design and methodology, statistics, and psychometrics.

(ii) “Accredited” means that the college or the university has met the standards as established either by the Middle States Association of Colleges and Secondary Schools, or by the New England Association of Colleges and Secondary Schools, or by the North Central Association of Schools and Colleges, or by other accrediting agencies using similar standards.

(iii) “Internship” means a training program of one year that is supervised by a doctoral level clinical psychologist or approved by the American Psychological Association, and can be demonstrated to be of high quality.

(c) “License” means that the person has been found qualified to engage in the practice of clinical psychology by the CNMI Board of Professional Licensing and, thereby, has been given license by the CNMI Department of Commerce and Labor upon application to practice clinical psychology.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsection (a), the Commission corrected the spelling of “psychology,” “mental” and “clinical.” In subsections (b)(1), (b)(3) and (b)(6)(iii), the Commission corrected the spelling of “words,” “educational,” “counseling,” “research” and “American.” The Commission inserted commas after the words “motivation” in subsection (b)(6)(i)(B) and “statistics” in subsection (b)(6)(i)(D) pursuant to 1 CMC § 3806(g). In subsection (c), the Commission corrected the spelling of “Professional.”

With respect to the reference to the “Department of Commerce and Labor” in subsection (c), see Executive Order 94-3 (effective August 23, 1994) reorganizing the Commonwealth government executive branch, changing agency names and official titles, and effecting numerous other revisions; see also Executive Order 03-01 (effective May 9, 2003), the “Department of Labor and Immigration Reorganization Plan of 2003,” returning the immigration functions of the executive branch to the Office of the Attorney General and renaming the Department of Labor.

### § 140-50.1-1105 Clinical Psychology Associate

(a) A person other than a licensed clinical psychologist may be employed by a licensed clinical psychologist or licensed psychiatrist, or by a clinic which provides mental health services, or by a clinical corporation perform limited psychological functions, provided that:

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- (1) Such person is designated as a “clinical psychology associate.”
  - (2) Such person has a master’s degree in psychology or a closely related field such a behavioral science, educational psychology, and guidance and counseling from an accredited school in the U.S.
  - (3) Such person is at all times under the immediate supervision of a licensed clinical psychologist or licensed psychiatrist who shall be responsible for insuring the extent, kind, and quality of psychological services rendered.
  - (4) No one person or clinic or corporation may employ more than 10 such associates at any time.
- (b) Clinical psychology associates shall comply with regulations that the CNMI Board of Professional Licensing may, from time to time, duly adopt relating to the fulfillment of requirements in education and the delivery of services.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In subsections (a)(1), (a)(2) and (b), the Commission corrected the spelling of “person,” “counseling” and “Professional,” respectively. The Commission inserted a comma after the word “kind” in subsection (a)(3) pursuant to 1 CMC § 3806(g).

### **§ 140-50.1-1110 License Without Written Examination**

At the present time, as the CNMI Board of Professional Licensing is not equipped to administer examinations, the requirements for examination will be waived for the duration of one year from the effective date of the regulations in this part. A license without written examination may be issued by the Medical Profession Licensing Board to a qualified applicant who furnished satisfactory proof that he has a doctor’s degree in clinical psychology and has completed the internship requirements; and

- (a) Has for one year prior to filing his application been a practicing clinical psychologist licensed in a state, territory, or district of the United States having license requirements, at the time that applicant was first licensed, which are substantially similar to the regulations in this part; or
- (b) Has within the three years prior to his filing his application successfully completed the examination conducted by a state, territory, or district of the United States. At this discretion, the CNMI Board of Professional Licensing may orally or practically examine any such person applying for licensing under this section.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In the opening paragraph, the Commission corrected the spelling of “Licensing,” “requirements” and “without.” In subsection (a), the Commission corrected the spelling of “licensed” and

“territory.”

**§ 140-50.1-1115 Present Practitioners of Clinical Psychology**

The CNMI Board of Professional Licensing recognizes that there are individuals who have been practicing clinical psychology in the Northern Mariana Islands. These individuals may be recommended to practice clinical psychology if they meet the following conditions:

- (a) They have a doctor’s degree from an accredited school in the U.S. in a program that is primarily psychological in content and that involves doctoral level training in most of the above mentioned areas of competency, and have completed a doctoral dissertation that is also psychological in content and methodology;
- (b) They have satisfactorily completed at least one year of clinical experience under the supervision of a doctoral level licensed psychologist or licensed psychiatrist, and that the program can be demonstrated to be of high quality;
- (c) They have been in practice in the Northern Mariana Islands at least two years prior to the promulgation of the regulations in this part.

Modified, 1 CMC § 3806(d), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In the opening paragraph, the Commission corrected the spelling of “individuals.” In subsection (a), the Commission corrected the spelling of “training.”

**§ 140-50.1-1120 Clinical Psychologists from Foreign Schools**

- (a) “Foreign school” means any college or division of a university in a country other than the U.S. that offers the degree of doctor in clinical psychology.
- (b) Foreign clinical psychologists who meet all the requirements established in the regulations in this part and are found to be qualified may be recommended for issuing licensed\* to practice clinical psychology, provided that they pass the examination given by the CNMI Board of Professional Licensing.

\* So in original.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

**§ 140-50.1-1125 License Requirements and Exceptions**

No person may practice clinical psychology in the Northern Mariana Islands who is not a



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licensed clinical psychologist or been found qualified to practice clinical psychology by the CNMI Board of Professional Licensing. However, this regulation shall not be construed to prohibit:

- (a) An employee of the federal, state, or territorial government performing his official duties.
- (b) A person who is hired by an agency of the Commonwealth government and is working under the supervision of a licensed clinical psychologist, or by a business corporation which has its own guidelines for hiring staff.
- (c) A clinical psychologist regularly licensed in another state or territory of the U.S. consulting with a licensed clinical psychologist in the Northern Mariana Islands.
- (d) Nothing in the regulations in this part shall be construed to prevent qualified members of other professional groups such as counseling psychology, educational research, marriage and family therapy, or social work, from doing work of a psychological nature consistent with their training and with any code of ethics of their respective professions, provided, however, that they do not hold themselves out to the public by any title or description incorporating the words “clinical psychologist” or “clinical psychology.”

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 11 Com. Reg. 6715 (Dec. 15, 1989); Emergency and Proposed 11 Com. Reg. 6372 (Sept. 15, 1989) (effective for 120 days from Aug. 30, 1989).

Commission Comment: In the opening paragraph, the Commission corrected the spelling of “qualified” and changed “regulations” to “regulation” to correct a manifest error. The Commission inserted a comma after the word “state” in subsection (a) pursuant to 1 CMC § 3806(g). In subsection (b), the Commission corrected the spelling of “Commonwealth” and “clinical.” In subsection (c), the Commission corrected the spelling of “licensed.” In subsection (d), the Commission corrected the spelling of “construed,” “counseling,” “respective” and “public.”

### **Part 1200 - Physician Assistants**

[Superseded. See Commission Comment.]

History: Superseded 34 Com. Reg. 32493 (July 29, 2012); Amdts Adopted 21 Com. Reg. 17019 (Dec. 15, 1999); Amdts Proposed 21 Com. Reg. 16838 (July 23, 1999).

Commission Comment: In July of 2012, the Health Care Professions Licensing Board enacted a new regulatory scheme for physician’s assistants, codified at Part 4100 of subchapter 140-50.3. The Notice of Adoption expressly superseded the former regulations located at this part.