

1 **13-1102. Duty of specialist.**

2 \_\_\_\_\_ (*name of defendant*), who held [~~himself~~ ~~herself~~] themselves out  
3 as a specialist in \_\_\_\_\_ (*area of specialty*), having undertaken to [treat] [operate  
4 on] [make diagnosis of] [care for] a patient in this specialized field, is under the duty to possess  
5 and apply the knowledge and to use the skill and care ordinarily used by reasonably well-qualified  
6 specialists practicing under similar circumstances, giving due consideration to the locality  
7 involved. A doctor who fails to do so is negligent.

8 [The degree of knowledge, skill, and care required of a specialist is usually higher than that  
9 required of a non-specialist, but it is never lower. Specialists are responsible for a certain base of  
10 knowledge in common with general practitioners, as well as additional knowledge in the field of  
11 their specialty.]

12 [The only way in which you may decide whether the doctor in this case possessed and  
13 applied the knowledge and used the skill and care which the law required of [~~him~~ ~~her~~] them is  
14 from evidence presented in this trial by doctors testifying as expert witnesses. In deciding this  
15 question, you must not use any personal knowledge of any of the jurors.]

16 USE NOTES

17 This is the standard of care instruction applicable to a specialist. UJI 13-1101 NMRA sets  
18 forth the duty of a non-specialist general practitioner. The name of the defendant should be inserted  
19 in the first blank in the first paragraph. The area of specialty should be inserted in the second blank  
20 in the first paragraph. Bracketed language should be chosen as appropriate. The bracketed middle  
21 paragraph should be omitted unless the court determines that the issues in the case require that the  
22 jury be instructed regarding a medical specialist<sup>[1]</sup>'s responsibility for basic general knowledge in  
23 areas outside the specific area of specialty. The bracketed final paragraph should be omitted in

1 those cases in which the court determines that expert testimony is not required and negligence can  
2 be determined by resort to common knowledge ordinarily possessed by the average person.

3 [As amended, effective January 1, 1987; November 1, 1991; August 15, 1997; approved, effective  
4 February 24, 1998; as amended by Supreme Court Order No. S-1-RCR-2025-00126, effective for  
5 all cases pending or filed on or after December 31, 2025.]

6 **Committee commentary.** — The same changes made in the general instruction on standard of  
7 care have been made in this instruction. *See* UJI 13-1101, committee commentary. In addition, the  
8 suggestions made by the Court of Appeals in *Vigil v. Miners Colfax [Medical Center] Med. Ctr.*,  
9 1994-NMCA-054, 117 N.M. 665, 875 P.2d 1096[~~(Ct. App.)~~], *cert. denied*, 117 N.M. 744, 877  
10 P.2d 44 (1994), are incorporated in the first and second paragraphs of the instruction. The second  
11 paragraph is intended to address the sort of situation posed by *Vigil* - *i.e.*, where a specialist is  
12 practicing in an area common to specialists and general practitioners and the argument might be  
13 made that the specialist, while subject to a higher standard of care in the area unique to ~~his or~~  
14 ~~her~~their specialty, need not meet the level of skill required of a general practitioner in an area  
15 outside the specialty. Because not every malpractice claim against a specialist involves such a fact  
16 pattern, however, and because the additional language might raise a false issue where the question  
17 of a specialist<sup>[']</sup>'s responsibility for basic general knowledge is not a part of the case, the paragraph  
18 has been bracketed for use only where the court deems it appropriate.

19 [As amended by Supreme Court Order No. S-1-RCR-2025-00126.]