

This is an amendment to 16.15.2 NMAC, Sections 7, 9, 10, 13, 14, 16 and 19, effective 2/24/2022.

16.15.2.7 DEFINITIONS:

~~[A.] “Military service member” [means a person who is serving in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard.] has the same meaning as defined in Paragraph (3) of Subsection F of Section 61-1-34 NMSA 1978.~~

~~[B.] Recent veteran: means a person who has received an honorable discharge or separation from military service within the two (2) years immediately preceding the date the person applied for an occupational or professional license pursuant to this section.~~

~~[C.] Spouse: means a person married to the military service member or recent veteran, in a marriage recognized by the state of New Mexico.]~~

[6/14/1997; 16.15.2.7 NMAC - Rn, 16 NMAC 15.2.7, 6/29/2000; A, 1/30/2015; A, 2/24/2022]

16.15.2.9 INITIAL APPLICATION FOR LICENSURE:

- A. An application packet may be obtained from the state licensure board office.
- B. The application must be submitted on completed forms as supplied by the board.
- C. A photograph of the applicant taken within six ~~[(6)]~~ months prior to filing application must be submitted with the application. (Passport size recommended; scanned or computer-generated photographs must be printed on photo quality paper).
- D. Application fees in the form of a check or money order must be submitted in full with the application. Personal checks may delay processing of your application for up to ~~[ten (10)]~~ 10 days.
- E. Verification of registration or certification may be provided in any of the following ways.
 - (1) Written verification must be received by the board directly from the national board for certification in occupational therapy (NBCOT) certifying that the applicant’s certification is active and in good standing.
 - (2) Written verification of initial certification must be received by the board directly from the national board for certification in occupational therapy (NBCOT) and verification of licensure from each state in which the applicant has been licensed. Such proof of licensure must be received by the board directly from the state boards where currently and previously licensed. For applicants who practiced in states that do not require licensure, written verification of employment shall be received by the board office directly from the applicant’s previous employers on a verification of employment form to be provided by the board.
- F. An occupational therapy assistant (OTA), shall file with the board a signed, current statement of supervision by the occupational therapist (OT) who will be responsible for the supervision of the occupational therapy assistant (OTA) within 20 business days of starting employment as an OTA. Both the supervisor and supervisee carry responsibility for notifying the board within ~~[ten (10)]~~ 10 work days when there is a change of supervisor.
- G. On-line applications will require a notarized signature card be filed with the board office.
- H. All licenses are the property of the board and shall forthwith be returned to the board, if requested.
- I. No license is valid without the official board seal.
- J. ~~[Questions of felony convictions or misdemeanors involving moral turpitude have to be satisfactorily resolved. The board may require proof that the person has been sufficiently rehabilitated to warrant the public trust. Proof of sufficient rehabilitation may include, but not be limited to; certified proof of completion of probation or parole supervision, payment of fees, community service or any other court ordered sanction.]~~
Convictions for any of the following offenses, or their equivalents in any other jurisdiction are disqualifying criminal convictions that may disqualify an applicant from receiving or retaining a license issued by the board:
 - (1) crimes involving homicide; murder, manslaughter, or resulting in death;
 - (2) crimes involving human trafficking, or trafficking in controlled substances;
 - (3) kidnapping, false imprisonment, assault, aggravated assault, battery or aggravated battery;
 - (4) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, prostitution, or other sexual crimes;
 - (5) crimes involving great bodily harm, adult abuse, injury to pregnant woman, child abuse, neglect, abandonment, stalking, aggravated stalking, custodial interference, unlawful interference with custody,

sabotage, financial exploitation, exploitation of a care facility resident's property, or criminal damage to property of a household member;

(6) contributing to the delinquency of a minor, unlawful carrying of a deadly weapon on school premises, unlawful carrying of a firearm in an establishment licensed to dispense alcoholic beverages, or a felon in possession of a firearm;

(7) crimes involving the unauthorized distribution of sensitive images;

(8) crimes involving ransom, robbery, larceny, extortion, burglary, sabotage, fraud, forgery, embezzlement, identity theft, credit card fraud or unauthorized use of a credit card; receiving stolen property, stolen vehicles, money laundering, or burglary tools;

(9) crimes involving unlawful taking, embezzlement or fraudulently obtaining a vehicle or motor vehicle;

(10) crimes involving making a bomb scare, arson, explosives, incendiary devices, facsimile bombs, hoax explosives, deadly weapons, or firearms;

(11) crimes involving seizing or exercising control of a bus by force or violence or by threat of force or violence;

(12) Violation of Partial-Birth Abortion Ban Act or the Endowed Care Cemetery Act;

(13) crimes involving the unlawful disposal of, use or sale of an unclaimed body;

(14) intentionally hampering, obstructing, tampering or destroying a monitoring device or a recording made by a monitoring device installed in a facility pursuant to the Patient Care Monitoring Act;

(15) crimes involving the second or subsequent offense of certain prohibited acts of the owner of a dangerous or potentially dangerous dog in the Dangerous Dog Act;

(16) crimes involving cruelty to animals, dog fighting, cockfighting, unlawful tripping of an equine causing the maiming, crippling or death of the equine, injury to police dog, police horse or fire dog;

(17) crimes involving the use of telephone to terrify, intimidate, threaten, harass, annoy or offend;

(18) crimes involving the use of any firearm, destructive device or technique capable of causing injury or death to any person with the intent that the knowledge or skill taught, demonstrated or gained be unlawfully used in furtherance of a civil disorder;

(19) violations of the Model State Commodity Code, the New Mexico Uniform Securities Act, the Mortgage Loan Company Act, Uniform Money Services Act, or the New Mexico Mortgage Loan Originator Licensing Act;

(20) crimes involving procuring or attempting to procure telecommunications service by theft or intentional damage of, communications or public utility equipment, whether customer or utility-owned, which created a public safety hazard or causes a disruption of communications services or public utility services to 10 or more households;

(21) crimes involving violations of the Election Code;

(22) crimes involving bribery, intimidating witnesses, retaliation against a witness, tampering with evidence, tampering with public records, performing an official act for personal gain, demanding or receiving a bonus, gratuity or bribe, unlawful interest in a contract involving an irrigation district, or receiving profits derived from an unlawful interest in a contract involving an irrigation district, or unlawful interest in a public contract;

(23) crimes involving jury tampering, impersonating a peace officer, or disarming a peace officer;

(24) crimes involving escape from custody, community custody release program, jail or penitentiary, or fleeing a law enforcement officer;

(25) crimes involving unlawful rescue, procuring escape, or conniving at, aiding or assisting escape of a person confined or held in lawful custody or confinement, or harboring or aiding a felon;

(26) crimes involving furnishing articles for a prisoner's escape, furnishing drugs or liquor to a prisoner, or bringing contraband into a prison or jail;

(27) crimes involving tax evasion or tax fraud;

(28) willful failure to collect and pay over taxes;

(29) crimes involving attempts to evade or defeat any tax;

(30) crimes involving paying or receiving public money for services not rendered;

(31) crimes involving violations of the Cigarette Tax Act, including packaging cigarettes and counterfeit stamps;

(32) crimes involving violations of the Cigarette Enforcement Act;

(33) crimes involving the Savings and Loan or the Credit Union Act;

(34) crimes involving perjury, false swearing of oath or affidavit, false voting, falsifying documents, filing false documents, making false statements, making an unauthorized withdrawals, obtaining information under false pretenses, or providing the credit bureau information of a consumer to an entity who is not authorized to receive that information;

(35) crimes involving an act or omission, with intent to defraud, expressly declared to be unlawful by the Banking Act,

(36) crimes involving altering or changing engine or other number of a vehicle or motor vehicle;

(37) crimes involving any contractor or subcontractor justly indebted to a supplier of material or labor who accepts payment for construction and knowingly and intentionally applies the proceeds to a use other than paying those persons with whom he contracted;

(38) crimes involving knowingly authorizing or assisting in the publication, advertising, distribution or circulation of any false statement or representation concerning any subdivided land offered for sale or lease, or with knowledge that any written statement relating to the subdivided land is false or fraudulent, issuing, circulating, publishing or distributing it;

(39) crimes involving making or permitting a false public voucher;

(40) crimes involving a false public voucher, false reports, uttering false statements, paying or receiving public money for services not rendered;

(41) crimes involving violations of the New Mexico Uniform Securities Act;

(42) crimes involving extortionate extensions of credit or racketeering;

(43) crimes involving the Pyramid Promotional Scheme Act or Antitrust Act;

(44) crimes involving the unlawful request, receipt, or offer to another that is exchanged for the promised performance of an official act, or illegal kickbacks;

(45) failing to comply with the registration or verification requirements of the Sex Offender Registration and Notification Act;

(46) crimes involving the practice of medicine, dentistry, optometry or osteopathic medicine without a license or authorization of the appropriate regulating authority;

(47) second or subsequent conviction of Chiropractic Physician Practice Act;

(48) crimes involving certain violations of the Optometry Act;

(49) crimes involving the Medicaid Fraud Act,

(50) fourth or subsequent conviction for driving under the influence of intoxicating liquor or drugs;

(51) crimes involving controlled substances, including violations of the Controlled Substances Act;

(52) crimes involving violations of the Drug Precursor Act or the Drug, Device and Cosmetic Act;

(53) crimes involving violations of the New Mexico Subdivision Act or the Mortgage Foreclosure Consultant Prevention Act;

(54) misuse of funds;

(55) intent to defraud uses on a public security or instrument of payment;

(56) crimes involving a violation of the Governmental Conduct Act; or

(57) an attempt, solicitation, or conspiracy involving any of the felonies in this subsection.

K. the board shall not consider the fact of a criminal conviction as part of an application for licensure unless the conviction in question is one of the disqualifying criminal convictions listed in Subsection J of this rule.

L. the board shall not deny, suspend or revoke a license on the sole basis of a criminal conviction unless the conviction in question is one of the disqualifying convictions listed in Subsections J of this rule.

M. nothing in this rule prevents the board from denying an application or disciplining a licensee on the basis of an individual's conduct to the extent that such conduct violated the Occupational Therapy Act, regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the disqualifying criminal convictions listed in Subsection J of this rule.

N. in connection with an application for licensure, the board shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:

(1) an arrest not followed by a valid conviction;

(2) a conviction that has been sealed, dismissed, expunged or pardoned;

(3) a juvenile adjudication; or

(4) a conviction for any crime other than the disqualifying criminal convictions listed in Subsection J of this rule.
[6/14/1997; 2/14/1998; 16.15.2.9 NMAC - Rn, 16 NMAC 15.2.9, 6/29/2000; A, 4/3/2003; A, 8/29/2005; A, 1/30/2015; A 2/24/2022]

16.15.2.10 PROVISIONAL PERMITS:

- A.** Any persons who have completed the education and experience requirements of the occupational therapy act and who have applied for the national board for certification in occupational therapy (NBCOT) examination may apply for a provisional permit.
- B.** The provisional permit allows the applicant to practice occupational therapy under the supervision of a licensed occupational therapist as defined in 16.15.3 NMAC.
- C.** The provisional permit is in effect for a maximum of six [~~(6)~~] months after issuance. Failure to sit for the NBCOT examination within six [~~(6)~~] months automatically voids the provisional permit. A license may be issued when results of the examination have been made public.
- D.** The provisional permit will automatically be invalidated upon notice to the board that the applicant has failed the examination.
- E.** Any previous failures of the NBCOT certification exam will prevent a person from obtaining a provisional permit.
- F.** Persons practicing on a provisional permit shall file with the board a signed current statement of supervision by the occupational therapist or occupational therapists (OT or OTs) who will be responsible for the supervision of the person practicing on a provisional permit. Both the supervisor and supervisee carry responsibility for notifying the board within [~~ten (10)~~] 10 work days when there is a change of supervisor.
- G.** Persons practicing on a provisional permit pending certification as an occupational therapy assistant (OTA) or an occupational therapist (OT) are not eligible to supervise. (Refer 16.15.3 NMAC)
- H.** All provisional permits are the property of the board and shall forthwith be returned to the board, if requested.
- I.** The provisional permit requires the official board seal and is valid for no more than six months.
[6/14/1997; 16.15.2.10 NMAC - Rn, 16 NMAC 15.2.10, 6/29/2000; A, 4/3/2003; A, 2/24/2022]

16.15.2.13 ANNUAL RENEWAL:

- A.** Annual renewal fees in the form of a check or money order must be remitted when due or license will expire automatically.
- B.** Licenses may be renewed upon receipt of a renewal application submitted on the form provided by the board, or via on-line renewal application through the board's on-line professional licensing system, the applicable annual renewal fee, and proof of continuing education requirements pursuant to regulations of the board.
- C.** The annual renewal date is October 1st of each year. All licenses issued by the board will expire on September 30th of each year.
- D.** At the time of renewal, an occupational therapy assistant shall confirm no changes to the statement of supervision filed at the time of initial application. If a change in supervision has occurred, a new statement of supervision must be submitted along with the completed renewal application.
[6/14/1997; 16.15.2.13 NMAC - Rn & A, 16 NMAC 15.2.13, 6/29/2000; A, 4/3/2003; A 2/24/2022]

16.15.2.14 EXPIRED LICENSE OR NON-PRACTICE:

- A.** A license not renewed on the annual renewal date is expired.
- B.** Validation of competency for applicants who have not practiced since his or her graduation from an occupational therapy program, or who have not practiced as an occupational therapist or occupational therapy assistant for a period of more than three [~~(3)~~] years, full licensure requires the following:
 - (1)** a completed application form as required under 16.15.2.9 NMAC;
 - (2)** passage of the jurisprudence exam;
 - (3)** [~~twenty (20)~~] 15 continuing education contact hours for each year the applicant was not practicing as an occupational therapist or occupational therapy assistant, not to exceed [~~one hundred (100)~~] 75 hours (course work to be pre-approved by the board);
 - (4)** the board may require the applicant to provide or demonstrate additional evidence of his or her competency to practice (e.g. passage of the national board for certification in occupational therapy exam, AOTA courses, university sponsored courses, supervision or mentorship).

[6/14/1997; 16.15.2.14 NMAC - Rn & A, 16 NMAC 15.2.14, 6/29/2000; A, 4/3/2003; A, 8/29/2005; A, 1/30/2015; A, 2/24/2022]

16.15.2.16 REINSTATEMENT OF LICENSURE:

A. Reinstatement of a New Mexico occupational therapist or occupational therapy assistant license that has lapsed for less than one year requires the following:

- (1) completion of the renewal form;
- (2) payment of late fee;
- (3) proof of the required continuing education contact hours;
- (4) passage of the jurisprudence examination and
- (5) submit a notarized statement, by the therapist, that they have not practiced occupational

therapy in New Mexico while their license was expired.

B. Reinstatement of an occupational therapist or occupational therapy assistant license that has lapsed in New Mexico for more than one ~~[(4)]~~ year, where there is evidence of continued practice with an unrestricted license/registration/certification in another state requires the following:

- (1) completion of the initial application;
- (2) payment of the application;
- (3) payment of the current year renewal fee;
- (4) proof of ~~[twenty (20)]~~ 15 continuing education hours for each year of the lapsed New

Mexico license; not to exceed ~~[one hundred (100)]~~ 75 hours or where there is evidence of continued practice with an unrestricted license, registration or certification from another U.S. jurisdiction as well as evidence of meeting the continuing education requirement in that same U.S. jurisdiction during the period of lapse;

- (5) passage of the jurisprudence examination; and
- (6) verification of all current, valid unrestricted licenses/registrations/certifications from

other U.S. jurisdictions; verifications may be received by the board via regular mail, electronic mail, or facsimile; verifications must be signed and dated by an official of the agency licensing the applicant and include the following data:

- (a) name and address of the applicant;
- (b) license/registration/certification number and date of issuance;
- (c) expiration date of the license/registration/certification;
- (d) a statement of whether the applicant was denied a

license/registration/certification by the agency;

- (e) a statement of whether any disciplinary action is pending or has been taken

against the applicant; and;

- (f) receipt of verification of employment for states not requiring licensure,

registration, or certification.

[16.15.2.16 NMAC - N, 8/29/2005; A, 1/30/2015; A, 2/24/2022]

16.15.2.19 EXPEDITED LICENSURE FOR MILITARY SERVICE MEMBERS, SPOUSES AND VETERANS: Application Requirements.

A. Applications for registration shall be completed on a form ~~[(electronic or hard copy)]~~ provided by the ~~[department.]~~ board of examiners for occupational therapy.

B. ~~[The information shall include:]~~ The applicant shall provide a complete application that includes the following information:

- (1) ~~[completed application and fee]~~ applicant's full name;

(2) ~~[satisfactory evidence that the applicant holds a license that is current and in good standing, issued by another jurisdiction, including a branch of armed forces of the United States, that has met the minimal licensing requirements that are substantially equivalent to the licensing requirements for the occupational or professional license the applicant applies for pursuant to Chapter 61, Articles 2 through 34 NMSA 1978;]~~ current mailing address;

(3) ~~[proof of honorable discharge (DD214) or military identification card or proof of marriage for spousal status.]~~ current electronic mail address, if any;

- (4) date of birth;

- (5) background check, if required; and

- (6) proof as described in subsection C below.

C. [Electronic signatures will be acceptable for applications submitted pursuant to Sections 14-16-1 through 14-16-21 NMSA 1978.] The applicant shall provide the following satisfactory evidence as follows:

(1) applicant is currently licensed and in good standing in another jurisdiction, including a branch of the United States armed forces;

(2) applicant has met the minimal licensing requirements in that jurisdiction and the minimal licensing requirements in that jurisdiction are substantially equivalent to the licensing requirement for New Mexico; and

(3) the following documentation:

(a) for military service member: copy of military orders;

(b) for spouse of military service members: copy of military service member's military orders, and copy of marriage license;

(c) for spouse of deceased military service members: copy of decedent's DD 214 and copy of marriage license;

(d) for dependent children of military service member: copy of military service member's order listing dependent child, or copy of military order and one of the following: copy of birth certificate, military service member's federal tax return or other governmental or judicial documentation establishing dependency;

(e) for veterans (retired or separated): copy of DD 214 showing proof of honorable discharge.

D. The license or registration shall be issued by the board as soon as practicable but no later than 30 days after a qualified military service member, spouse, dependent child, or veteran files a complete application and provides a background check if required for a license, and any required fees.

E. Military service members and veterans shall not pay and the board shall not charge a licensing fee for the first three years for a license issued pursuant to this rule.

F. A license issued pursuant to this section shall be valid for the time period that is specific in the Occupational Therapy Act.

G. A license issued pursuant to this section shall not be renewed unless the license holder satisfies that requirements for renewal set forth in 16.15.2.13 NMAC pursuant to Subsection A of Section 61-12A-9 NMSA 1978.

H. As a courtesy, the board will send via electronic mail license renewal notification to licensees or registrants before the license expiration date to the last known email address on file with the board. Failure to receive the renewal notification shall not relieve the licensee or registrant of the responsibility of timely renewal on or before the expiration date.

[16.15.2.19 NMAC - N, 1/30/2015; A, 2/13/2015; A 2/24/2022]