

This is an amendment to 16.20.3 NMAC, Sections 7, 8 and 9, effective 2/24/2022.

16.20.3.7 DEFINITIONS: ~~[RESERVED]~~ **“Disqualifying criminal conviction”** has the same meaning as defined in Subsection E of Section 61-1-36 NMSA 1978.

[16.20.3.7 NMAC - Rp, 16.20.3.7 NMAC, 11/1/2004; A, 2/24/2022]

16.20.3.8 APPLICATION FOR LICENSURE.

A. The board may issue a license to an applicant, other than one applying for licensure by reciprocity, who fulfills the following requirements:

- (1) completes the application;
- (2) includes a passport-size photograph taken within the preceding 12 months and affixes it to the application;
- (3) pays the non-refundable application fee in full as provided in Part 5;
- (4) passes the jurisprudence exam (as specified in 16.20.2.10 NMAC) and pays the non-refundable exam fee as provided in Part 5;
- (5) submits official college or university transcripts from a program approved by the commission on accreditation in physical therapy education (CAPTE) verifying one of the following:
 - (a) post-baccalaureate degree in physical therapy;
 - (b) associate degree as a physical therapist assistant;
- (6) if official transcripts are not available because of school closure or destruction of the records, e.g., the applicant must provide satisfactory evidence of meeting the required physical therapy educational program requirements by submitting documentation that will be considered on a case-by-case basis by the board and pursuant to the following:
 - (a) for applicants who graduated after January 1, 2002, documentation of graduation with a post-baccalaureate degree in physical therapy from an educational program accredited by CAPTE;
 - (b) for applicants who graduated prior to January 1, 2002, documentation of graduation with a baccalaureate degree in physical therapy or a certificate in physical therapy from an educational program accredited by CAPTE;
 - (c) for physical therapist assistant applicants, documentation of graduation from an accredited physical therapist assistant program accredited by CAPTE and approved by the board;
- (7) passes the national physical therapy licensure examination (NPTE) (as specified in 16.20.2.8 NMAC); if the applicant has previously taken the NPTE, the testing entity shall send the test scores directly to the board; test scores sent by individuals, organizations or other state boards will not be accepted.
- (8) Effective February 1, 2020, all applicants for licensure must submit nationwide and statewide department of public safety (DPS) criminal history screening background check. All applicable application fees associated with the nationwide and statewide criminal history screening background check shall be paid by the applicant.
 - (a) Applicants will follow the criminal background check process required by the New Mexico department of public safety or its agents.
 - (b) Applications for exam or endorsement will not be processed without results of a criminal background check.
 - (c) If the criminal background check reveals a crime of moral turpitude or relevant felony or violation of the New Mexico physical therapy practice act, the applicant will be notified to submit copies of legal documents and other related information to the board that will make the determination if the applicant is eligible for licensure or if disciplinary action will be taken.

B. For applicants who have not practiced since graduating from a physical therapy education program, or who have not practiced as a physical therapist or physical therapist assistant for a period of more than three consecutive years, full licensure requires fulfilling the following requirements:

- (1) satisfactory completion of all application requirements for licensure as provided in Subsection A of 16.20.3.8 NMAC;
- (2) provides proof of having taken 15 continuing education contact hours for each year the applicant was not practicing as a physical therapist or physical therapist assistant (coursework to be pre-approved by the board);

(3) provides evidence of additional competency to practice as required by the board.

C. ~~[Felony or misdemeanor convictions involving moral turpitude directly related to employment in the profession have to be satisfactorily resolved. The board may require proof that the person has been sufficiently rehabilitated to warrant the public trust if the prior conviction does not relate to employment in the profession. Proof of sufficient rehabilitation may include, but is not 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/commission:

(1) crimes involving homicide, murder, manslaughter, assisting suicide or resulting in death;

(2) crimes involving human trafficking, or trafficking in controlled substances;

(3) crimes involving 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, child abuse, neglect, abandonment, stalking, aggravated stalking, custodial interference, unlawful interference with custody, injury to pregnant woman, breaking and entering, damage to property of a household member, or exploitation of a care facility resident's property;

(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) criminal damage to property, damaging insured property, falsely obtaining services or accommodations;

(8) accepting the earnings of a prostitute;

(9) crimes involving the unauthorized distribution of sensitive images, computer abuse or unauthorized computer use;

(10) crimes involving ransom, robbery, larceny, extortion, burglary, sabotage, fraud, forgery, embezzlement, identity theft, credit card fraud, credit card theft, dealing in credit cards of another, unauthorized use of a credit card, receiving or transferring stolen property, money laundering, shoplifting, or stolen vehicles

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

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

(13) violation of Partial-Birth Abortion Ban Act or the Endowed Care Cemetery Act;

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

(15) 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;

(16) crimes involving the second or subsequent offense of certain prohibited acts of the owner

(17) 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;

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

(19) 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;

(20) violations of the Model State Commodity Code, the Uniform Securities Act, the Mortgage Loan Company Act, the Mortgage Loan Originator Licensing Act, the Savings

(21) violations of the Election Code or the Indian Arts and Crafts Sales Act;

(22) crimes involving procuring or attempting to procure telecommunications service without paying charge, 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 ten or more households;

(23) 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

- (24) crimes involving jury tampering, or impersonating a police officer;
- (25) crimes involving escape from custody, community custody release program, jail or penitentiary, fleeing a law enforcement officer;
- (26) 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;
- (27) crimes involving furnishing articles for a prisoner's escape, furnishing drugs or liquor to a prisoner, or bringing contraband into a prison or jail;
- (28) crimes involving tax evasion or tax fraud;
- (29) willful failure to collect and pay over taxes;
- (30) crimes involving attempts to evade or defeat any tax;
- (31) crimes involving violations of officers or employees engaging in the administration of the property tax who buy property sold for delinquent property taxes that is unlawful;
- (32) crimes involving paying or receiving public money for services not rendered;
- (33) crimes involving violations of the Cigarette Tax Act, including packaging cigarettes and counterfeit stamps;
- (34) crimes involving violations of the Cigarette Enforcement Act;
- (35) crimes involving the Credit Union Act;
- (36) crimes involving perjury, public assistance, false swearing of oath or affidavit, false voting, falsely obtaining services or accommodations, falsifying documents, filing false documents, making false statements, making unauthorized withdrawals, issuing a worthless check, 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;
- (37) unlawful dealing in federal food coupons or WIC checks, unlawful use of food stamp identification card or medical identification card;
- (38) crimes involving the Medicaid Fraud Act;
- (39) failure to reimburse the human services department upon receipt of third party payment;
- (40) an act or omission, with intent to defraud, expressly declared to be unlawful by the Banking Act;
- (41) crimes involving improper disposition of certain court funds or improper sale, disposal, removal or concealing of encumbered property;
- (42) crimes involving the possession of 4 or more incomplete credit cards or machinery, plates or other contrivance;
- (43) crimes involving altering or changing engine or other number of a vehicle or motor vehicle;
- (44) 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;
- (45) crimes involving a false public voucher, false reports, uttering or making false statements, paying or receiving public money for services not rendered;
- (46) crimes involving unlawful influencing, unlawful sale of a lottery ticket, unlawful representation of a business or individual as a credit union, conducting business as a credit union when not authorized to do so;
- (47) crimes involving extortionate extensions of credit or racketeering;
- (48) crimes involving the Pyramid Promotional Scheme Act or Antitrust Act;
- (49) crimes involving the unlawful request, receipt, or offer to another that is exchanged for the promised performance of an official act, performance of an official act for personal gain or illegal kickbacks;
- (50) failing to comply with the registration or verification requirements of the Sex Offender Registration and Notification Act;
- (51) crimes involving the practice of medicine, dentistry, optometry or osteopathic medicine without a license or authorization of the appropriate regulating authority;
- (52) second or subsequent conviction of Chiropractic Physician Practice Act;
- (53) crimes involving certain violations of the Optometry Act;
- (54) fourth or subsequent driving under the influence of intoxicating liquor or drugs;
- (55) crimes involving controlled substances, including violations of the Controlled Substances Act;
- (56) crimes involving violations of the Drug Precursor Act or the Drug, Device and Cosmetic Act;

- (57) misuse of public funds;
- (58) intent to defraud uses on a public security or instrument of payment;
- (59) crimes involving commercial gambling, dealing in gambling devices, possession of an unlicensed or illegal gaming device, or a violation of the Gaming Control Act;
- (60) crimes involving a violation of the Horse Racing Act;
- (61) crimes involving having possession with the intent to sell or resell alcoholic beverages that have been manufactured or transported in violation of state law, or manufacturing any spirituous liquor by a person who is not a licensed distiller or rectifier manufacturing;
- (62) crimes involving selling or giving alcoholic beverages to minors, and possession of alcoholic beverages to minors, or the manufacture, possession, offering to sell or sale of any alcoholic beverages in the state that are not in accordance with the Liquor Control Act, or other violations of the Liquor Control Act;
- (63) willfully attempting to evade or defeat any fee or other payment imposed pursuant to the Professional Athletic Competition Act;
- (64) second or subsequent conviction for failing to comply with restrictions imposed by proclamation of the governor under the Riot Control Act during a state of emergency, or failure to comply with proclamation of the governor;
- (65) willfully setting on fire or igniting or causing to be set on fire or ignited any building equipment or anything whatsoever at or within any mine when any person is present in such mine when any person is present in such mine at the time, or willfully setting fire upon state lands;
- (66) crimes involving a violation of the Procurement Code;
- (67) crimes involving a violation of the Governmental Conduct Act; or
- (68) an attempt, solicitation, or conspiracy involving any of the felonies in this Subsection.

D. 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 C of this rule.

E. 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 criminal convictions listed in Subsection C of this rule or

F. 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 Physical 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 A of this rule.

G. 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 A of this rule.

~~[D.]~~ H. A licensee requesting a name change must submit proof of name change, the original license and a replacement license fee.

~~[E.]~~ I. Foreign educated applicants must meet all requirements for licensure as provided in Subsection A of 16.20.3.8 NMAC as well as those requirements listed in 16.20.9 NMAC.

~~[F.]~~ J. Initial application is valid for a period of 12 months.
 [16.20.3.8 NMAC - Rp, 16.20.3.8 NMAC, 11/1/2004; A, 3/2/2006; A, 1/12/2008; A, 8/1/2009; A, 8/16/2010; A, 7/27/2017; A, 7/28/2019; A, 2/24/2022]

16.20.3.9 ~~BIENNIAL LICENSING AS OF AUGUST 2009 FOR NEW APPLICANTS:~~

- A. Initial Licensure:
- (1) for an applicant whose first physical therapy or physical therapist assistant license is issued between August 1, 2009, and January 31, 2010, that license will be valid until February 1, 2011;
 - (2) for an applicant whose first physical therapy or physical therapist license is issued between February 1, 2010, and July 31, 2010, that license will be valid until February 1, 2012;
 - (3) no license will be issued for a period exceeding 24 months;
 - (4) this section expires on July 31, 2010.

B. License renewals will be done in accordance with the requirements set forth in 16.20.8 NMAC and 16.20.5 NMAC.] ~~[RESERVED]~~

[16.20.3.9 NMAC - Rp, 16.20.3.9 NMAC, 11/1/2004; A, 3/2/2006; A, 1/12/2008; 16.20.3.9 NMAC - N, 8/1/2009;
Repealed, 2/24/2022]