

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16 OPTOMETRIC PRACTITIONERS
PART 11 LICENSE EXPIRATION DUE TO NON-RENEWAL; REACTIVATION

16.16.11.1 ISSUING AGENCY: New Mexico Board of Optometry.
[10/14/1995; 2/15/1999; 16.16.11.1 NMAC - Rn, 16 NMAC 16.11.1, 3/15/2001; A, 3/15/2004; A, 7/6/2012]

16.16.11.2 SCOPE: Part 11 of Chapter 16 applies to licensees whose licenses have expired due to non-renewal and who wish to reactivate their license.
[10/14/1995; 16.16.11.2 NMAC - Rn, 16 NMAC 16.11.2, 3/15/2001, A, 3/15/2004]

16.16.11.3 STATUTORY AUTHORITY: The authority for Part 11 of Chapter 16 is Subsection D of 61-2-6 NMSA 1978; Subsection A of 61-2-11 NMSA 1978; and Section 61-2-12 NMSA 1978.
[10/14/1995; 16.16.11.3 NMAC - Rn, 16 NMAC 16.11.3, 3/15/2001]

16.16.11.4 DURATION: Permanent.
[10/14/1995; 16.16.11.4 NMAC - Rn, 16 NMAC 16.11.4, 3/15/2001]

16.16.11.5 EFFECTIVE DATE: October 14, 1995, unless a later date is cited at the end of a section.
[10/14/1995; 10/15/1997; 16.16.11.5 NMAC - Rn, 16 NMAC 16.11.5, 3/15/2001; A, 3/15/2004]

16.16.11.6 OBJECTIVE: The objective of Part 11 of Chapter 16 is to set forth regulations on expiration of an optometry license due to non-renewal and the requirements for reactivation of the license. When a licensee fails to renew or reactivate an expired license after a certain time period and the license becomes null and void and lapses, the board requires a reapplication process to re-test the applicant for competence to practice the profession in New Mexico, ensuring continued competence and thereby protecting the health, safety, and welfare of the public.
[10/14/1995; 10/15/1997; 16.16.11.6 NMAC - Rn, 16 NMAC 16.11.6, 3/15/2001; A, 3/15/2004]

16.16.11.7 DEFINITIONS:

A. “Valid license” means a license that is subject to regulation by, and statutory authority of, the board.

B. “Active status” means the license is valid and current and that the licensee is authorized by the board to practice optometry in New Mexico.

C. “Expired status” means the license has not been renewed by the license expiration date in accordance with 16.16.11.8 NMAC, but is still under the statutory authority of the board for the period specified in 16.16.11.16 NMAC.

D. “Inactive status” means a New Mexico license that has been placed on non-working status in accordance with board rule 16.16.9 NMAC, provided the licensee is practicing in another state and is currently in good standing with that state.

E. “Null and void status” means an expired, retired, or inactive status license that has passed the time limitation set forth in 16.16.11.16 NMAC or 16.16.12.15 NMAC, or 16.16.9.16 NMAC, and is thus lapsed and cannot be reactivated.

F. “Lapsed status” means a license that is null and void.

G. “Retired status” means a license that has been withdrawn from active status at the request of the licensee because the licensee has retired from business and is no longer practicing optometry in any licensing jurisdiction, but which is still subject to the authority of the board for a period of five years after the license was placed on retired status as specified in 16.16.12.15 NMAC.

[10/14/1995; 16.16.11.7 NMAC - Rn, 16 NMAC 16.6.11.7, 3/15/2001; A, 3/15/2004; A, 7/6/2012]

16.16.11.8 LICENSE EXPIRATION DUE TO NON-RENEWAL: Licenses not renewed on or before July 1, as set forth in 16.16.10.8 NMAC, shall be expired.
[10/14/1995; 16.16.11.8 NMAC - Rn, 16 NMAC 16.11.8, 3/15/2001; A, 3/15/2004; A, 3/22/2008; A, 7/6/2012]

16.16.11.9 LATE PENALTY FEE: Licenses not renewed on or before July 1, as set forth in 16.16.10.8 NMAC, shall be subject to the required late penalty fee, as provided in 16.16.2.14 NMAC, in addition to the renewal fee, as provided in 16.16.2.13 NMAC.

[10/14/1995; 16.16.11.9 NMAC - Rn, 16 NMAC 16.11.9, 3/15/2001; A, 3/15/2004; A, 3/22/2008; A, 7/6/2012]

16.16.11.10 [RESERVED]

[10/14/1995; 16.6.11.10 NMAC - Rn, 16 NMAC 16.11.10, 3/15/2001; Repealed, 3/15/2004]

16.16.11.11 LICENSE STATUS REPORTED: Licenses that expire or that are inactive, retired, revoked or suspended for any other reason, shall be reported by the board to the New Mexico board of pharmacy, as required by the Optometry Act; to other state or federal agencies as required; and to any other inquirer as requested.

[10/14/1995; 10/15/1997; 16.16.11.11 NMAC - Rn, 16 NMAC 16.11.11, 3/15/2001; A, 3/15/2004; A, 7/6/2012]

16.16.11.12 PRACTICE PROHIBITED:

A. An optometrist shall not practice optometry in the state of New Mexico while his or her license is expired; or while it is inactive, retired, revoked, suspended, or is otherwise invalid as provided in Subsection A of 61-2-14 NMSA 1978.

B. Any person who practices optometry in New Mexico without an active, current, and valid license is guilty of a fourth degree felony and upon conviction shall be sentenced pursuant to the provisions in Subsection A of Section 61-31-18 NMSA 1978, which states, "If a person is convicted of a non-capital felony, the basic sentence of imprisonment is as follows: for a fourth degree felony, 18 months' imprisonment."

C. The court may, in addition to the imposition of a basic sentence of imprisonment, impose a fine not to exceed five thousand dollars (\$5,000).

[10/14/1995; 10/15/1997; 16.16.11.12 NMAC - 16 NMAC 16.11.12, 3/15/2001; A, 3/15/2004; A, 3/22/2008; A, 7/6/2012]

16.16.11.13 APPLICATION FOR REACTIVATION OF LICENSE: The licensee whose license is expired due to non-renewal, and who wishes to reactivate the license to active and current status, must apply for, and receive, approval by the board for reactivation of the license. The application for reactivation must be made on a reactivation form received from the board office, and must be accompanied by the following items:

A. proof of completion of a minimum of 22 hours of board-approved continuing education (see 16.16.13 NMAC) taken for each year the license was expired due to non-renewal, 22 of which must have been taken in the immediate preceding year;

B. verification directly from at least one of the applicant's other licensing jurisdiction(s) certifying that the licensee has been in active practice there during the time the license was in expired status due to non-renewal in New Mexico, unless the New Mexico license has only been in expired status for less than a year, in which case verification of licensure from another licensing jurisdiction is not necessary;

C. verification directly from the applicant's other licensing jurisdiction(s), as to the status of the license with respect to disciplinary actions if the New Mexico license is in expired status for more than a year, and provided that the licensee is licensed in other jurisdiction(s);

D. a reactivation fee in an amount totaling the renewal fees for each year the license was in expired status due to non-renewal; and

E. a one-time penalty fee in an amount totaling the penalty fees in 16.16.2.14 NMAC.

[10/14/1995, 10/15/1997; 16.16.11.13 NMAC - Rn, 16 NMAC 16.11.13, 3/15/2001; A, 3/15/2004; A, 3/22/2008; A, 7/6/2012; A, 5/29/2019]

16.16.11.14 REACTIVATION APPROVED: Upon receiving approval for license reactivation by the board, the applicant will receive a reactivated license to practice optometry in the state of New Mexico.

[10/14/1995, A, 10/15/1997; 16.16.11.14 NMAC - Rn, 16 NMAC 16.11.14, 3/15/2001; A, 3/15/2004]

16.16.11.15 REACTIVATION DENIED: An applicant whose application for reactivation has been denied shall be afforded an opportunity for a hearing under Section 61-1-4 of the Uniform Licensing Act.

[10/14/1995; 16.16.11.15 NMAC - Rn, 16 NMAC 16.11.15, 3/15/2001; A, 3/15/2004]

16.16.11.16 TIME LIMITATION FOR REACTIVATION: The time limitation for reactivating a license that has been expired due to non-renewal is five years.

A. Licenses not reactivated within the time limitation specified shall become null and void (lapsed).

B. Null and void (lapsed) licenses may not be reactivated.

[10/15/1997; 16.16.11.16 NMAC - Rn, 16 NMAC 16.11.16, 3/15/2001; A, 3/15/2004]

16.16.11.17 APPLICATION FOR LICENSURE REQUIRED: In order to practice optometry in New Mexico, the optometrist whose New Mexico license has become null and void (lapsed) must complete the entire application process and meet all the licensure requirements in effect at the time of application, including re-examination by the board.

[10/15/1997; 16.16.11.17 NMAC - Rn, 16 NMAC 16.11.17, 3/15/2001; A, 3/15/2004]

HISTORY of 16.16.11 NMAC:

Pre-NMAC History: None

History of Repealed Material: [Reserved]

Other History:

16 NMAC 16.11, License Expiration; Revocation Due To Non-Renewal; Reactivation, filed 9/21/1995, renumbered and reformatted to 16.16.11 NMAC, License Expiration; Revocation Due To Non-Renewal; Reactivation, effective 3/15/2001.