

Board of Examiners for Occupational Therapy



Rules and Regulations

New Mexico Administrative Code:
Title 16 – Occupational and Professional Licensing
Chapter 15 – Occupational Therapists
16.15 NMAC

Statute Article 12A

Regulations and Licensing Department
Boards and Commissions Division
PO Box 25101
Santa Fe NM 87504
505.476.4622

www.rld.state.nm.us/boards/Occupational_Therapy.aspx

Board of Examiners for Occupational Therapy



Rules and Regulations

New Mexico Administrative Code:
Title 16 – Occupational and Professional Licensing
Chapter 15 – Occupational Therapists
16.15 NMAC

PART 1	GENERAL PROVISIONS	3
PART 2	LICENSING REQUIREMENTS	7
PART 3	SUPERVISION	13
PART 4	CONTINUING EDUCATION REQUIREMENTS	17
PART 5	DISCIPLINARY PROCEEDINGS	21
PART 6	FEE SCHEDULE	25

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 15 OCCUPATIONAL THERAPISTS
PART 1 GENERAL PROVISIONS

16.15.1.1 ISSUING AGENCY: Board of Examiners for Occupational Therapy.
[06-14-97; 16.15.1.1 NMAC - Rn & A, 16 NMAC 15.1.1, 06-29-00]

16.15.1.2 SCOPE: All those individuals who wish to practice occupational therapy in the state of New Mexico.
[06-14-97; 16.15.1.2 NMAC - Rn, 16 NMAC 15.1.2, 06-29-00]

16.15.1.3 STATUTORY AUTHORITY: Sections 61-12A-6, 61-12A-8, 61-12A-16, NMSA 1978 of the Occupational Therapy Act. Sections 40-5A-1 through 40-5A-13 NMSA 1978 of the Parental Responsibility Act.
[06-14-97; 16.15.1.3 NMAC - Rn, 16 NMAC 15.1.3, 06-29-00]

16.15.1.4 DURATION: Permanent.
[06-14-97; 16.15.1.4 NMAC - Rn, 16 NMAC 15.1.4, 06-29-00]

16.15.1.5 EFFECTIVE DATE: June 14, 1997, unless a later date is cited at the end of a section.
[06-14-97; 16.15.1.5 NMAC - Rn & A, 16 NMAC 15.1.5, 06-29-00]

16.15.1.6 OBJECTIVE: The objective of Part 1 is to set forth the provisions which apply to all of Chapter 15, and to all persons and entities affected or regulated by Chapter 15 of Title 16.
[06-14-97; 16.15.1.6 NMAC - Rn, 16 NMAC 15.1.6, 06-29-00]

16.15.1.7 DEFINITIONS:

- A. "Board" means the board of examiners for occupational therapy.
 - B. "Occupational therapist" means a person who holds an active license to practice occupational therapy in New Mexico.
 - C. "Occupational therapy assistant" means a person having no less than an associate degree in occupational therapy and holding an active license to practice occupational therapy in New Mexico who assists an occupational therapist under the supervision of the occupational therapist.
- [06-14-97; 16.15.1.7 NMAC - Rn, 16 NMAC 15.1.7, 06-29-00; A, 01-30-15]

16.15.1.8 TELEPHONE CONFERENCES: Board members may participate in a meeting of the board by means of a conference telephone or similar communications equipment and participation by such means shall constitute presence in person at the meeting. However, such participation by telephone may only occur if it is difficult or impossible for a member of the board to attend a meeting in person. Each member participating by conference telephone must be identified when speaking, all participants must be able to hear each other at the same time and members of the public attending the meeting must be able to hear any member of the board who speaks during the meeting.
[06-14-97; 16.15.1.8 NMAC - Rn, 16 NMAC 15.1.8, 06-29-00]

16.15.1.9 LICENSE DISPLAY:

- A. Each licensee shall display his current license certificate in a conspicuous place in the principal office where he practices occupational therapy.
 - B. At secondary places of employment, documentation of license shall be verified by photocopy with a note attached indicating where the current license certificate is posted.
 - C. A consumer information sign shall be displayed in the principal place of practice. The consumer information sign shall read: "Complaints regarding noncompliance with the Occupational Therapy Act can be directed to the Board of Examiners for Occupational Therapy at P.O. Box 25101, Santa Fe, New Mexico 87504."
- [06-14-97; 16.15.1.9 NMAC - Rn & A, 16 NMAC 15.1.9, 06-29-00]

16.15.1.10 IDENTIFICATION: A person offering or assisting in the offering of occupational therapy shall be properly identified by a name badge or other identification indicating whether he is a registered occupational

therapist, certified occupational therapy assistant, an occupational therapy aide or technician or a person practicing under a provisional permit.
[06-14-97; 16.15.1.10 NMAC - Rn, 16 NMAC 15.1.10, 06-29-00]

16.15.1.11 BOARD MEMBER REQUIREMENTS:

A. Board members are required to attend board meetings as scheduled by the board. Any board member failing to attend three consecutive board meetings shall automatically be recommended for removal from the board in accordance with Section 8 of the Occupational Therapy Act.

B. Board members may be excused from attending board meetings for any of the reasons set forth below:

- (1) illness;
- (2) death in the immediate family;
- (3) military service;
- (4) inclement weather;
- (5) any other reason deemed appropriate by the president of the board.

[06-14-97; 16.15.1.11 NMAC - Rn, 16 NMAC 15.1.11, 06-29-00]

16.15.1.12 PUBLIC RECORDS: Except as provided herein and except as otherwise provided by law, all applications, pleadings, petitions and motions are matters of public record at the time of filing with the board. Upon notification of the defendant, the notice of contemplated action and information contained in the complaint file becomes a public record and subject to disclosure.

[06-14-97; 16.15.1.12 NMAC - Rn, 16 NMAC 15.1.12, 06-29-00; A, 04-03-03]

16.15.1.13 INSPECTION OF PUBLIC RECORDS: The board operates in compliance with the Inspection of Public Records Act, Sections 14-2-1 through 14-2-16 NMSA 1978. The board administrator is the custodian of the board's records.

[06-14-97; 16.15.1.13 NMAC - Rn, 16 NMAC 15.1.13, 06-29-00]

16.15.1.14 NON-PUBLIC RECORDS: The following records are considered confidential and are not subject to public inspection.

- A.** Letters of reference, if applicable.
- B.** Medical reports and/or records of chemical dependency, physical or mental examinations or treatment in an impaired practitioner program.
- C.** Examination scores.
- D.** The contents of any examination used to test for an individual's knowledge or competence.
- E.** Investigative files.
- F.** Written and oral communication relating to actual or potential disciplinary action, including complaints.
- G.** Matters of opinion.

[06-14-97; 16.15.1.14 NMAC - Rn, 16 NMAC 15.1.14, 06-29-00]

16.15.1.15 PARENTAL RESPONSIBILITY ACT (PRA): By the end of each month in which a certified list is received, the board shall report to the New Mexico human services department the names of board applicants and licensees who are on the certified list as being more than thirty days in arrears in payment of amounts required to be paid pursuant to an outstanding judgment and order for child support in New Mexico, and the action the board has taken in connection with such applicants and licensees.

[6-14-97; 16.15.1.15 NMAC - Rn, 16 NMAC 15.1.15, 06-29-00]

16.15.1.16 COERCION PROHIBITED: No person(s) shall coerce an occupational therapist or occupational therapy assistant into compromising client safety by requiring them to delegate activities or tasks if the occupational therapist or occupational therapy assistant determines that it is inappropriate to do so. Occupational therapists or occupational therapy assistants shall not be subject to disciplinary action by the board for refusing to delegate or refusing to provide the required training for delegation if the occupational therapist or occupational therapy assistant determines that delegation may compromise client safety.

[16.15.1.16 NMAC - N, 01-30-15]

HISTORY of 16.15.1 NMAC:

Pre-NMAC History:

Material in this Part was derived from that previously filed with State Records and Archives:

Rule 95-4, Telephone Conferences, filed 2/14/95.

[Rp, 16 NMAC 15.1.3A, 06-29-00]

History of the Repealed Material: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 15 OCCUPATIONAL THERAPISTS
PART 2 LICENSING REQUIREMENTS

16.15.2.1 ISSUING AGENCY: Board of Examiners for Occupational Therapy
[06-14-97; 16.15.2.1 NMAC - Rn & A, 16 NMAC 15.2.1, 06-29-00]

16.15.2.2 SCOPE: All those individuals who wish to practice occupational therapy in the state of New Mexico.
[06-14-97; 16.15.2.2 NMAC - Rn, 16 NMAC 15.2.2, 06-29-00]

16.15.2.3 STATUTORY AUTHORITY: Section 61-12A-6 NMSA 1978.
[06-14-97; 16.15.2.3 NMAC - Rn, 16 NMAC 15.2.3, 06-29-00]

16.15.2.4 DURATION: Permanent.
[06-14-97; 16.15.2.4 NMAC - Rn, 16 NMAC 15.2.4, 06-29-00]

16.15.2.5 EFFECTIVE DATE: June 14, 1997, unless a later date is cited at the end of a section.
[06-14-97; 16.15.2.5 NMAC - Rn & A, 16 NMAC 15.2.5, 06-29-00]

16.15.2.6 OBJECTIVE: To outline the application, examination, provisional permit, and renewal requirements.
[06-14-97; 16.15.2.6 NMAC - Rn, 16 NMAC 15.2.6, 06-29-00]

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.

B. Recent veteran: means a person who has received an honorable discharge or separation from military service within the two 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.

[06-14-97; 16.15.2.7 NMAC - Rn, 16 NMAC 15.2.7, 06-29-00; A, 01/30/2015]

16.15.2.8 EXAMINATION:

A. The examination prescribed by the board is the national board for certification in occupational therapy examination for an occupational therapist registered or certified occupational therapy assistant. All applicants for licensure, pursuant to the Occupational Therapy Act, must obtain a passing grade on the examination, as determined by the national board for certification in occupational therapy (NBCOT), in order to be eligible for licensure.

B. The board requires each applicant to pass an examination on the state laws, rules and regulations that pertain to the practice of occupational therapy in New Mexico. All applicants for licensure must take the New Mexico jurisprudence exam and have a passing score of eighty percent, based on a total available score of one hundred percent. Any applicant who fails to pass the jurisprudence examination may retake the exam upon receipt of the required fees.

[06-14-97; 16.15.2.8 NMAC - Rn, 16 NMAC 15.2.8, 06-29-00; A, 04-03-03]

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 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 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). Both the supervisor and supervisee carry responsibility for notifying the board within 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. [06-14-97; 02-14-98; 16.15.2.9 NMAC - Rn, 16 NMAC 15.2.9, 06-29-00; A, 04-03-03; A, 08-29-05; A, 01/30/2015]

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 months after issuance. Failure to sit for the NBCOT examination within six 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 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 to 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. [06-14-97; 16.15.2.10 NMAC - Rn, 16 NMAC 15.2.10, 06-29-00; A, 04-03-03]

16.15.2.11 EDUCATIONAL PROGRAMS:

A. The occupational therapy educational program completed by the occupational therapist or occupational therapy assistant must have been accredited by the accreditation council for occupational therapy education (ACOTE) of the American occupational therapy association (AOTA).

B. Occupational therapists trained outside the United States must have had their education accepted by the national board for certification in occupational therapy. The board must receive written verification in the form of an eligibility letter received by the board directly from the national board for certification in occupational therapy (NBCOT).

[06-14-97; 16.15.2.11 NMAC - Rn, 16 NMAC 15.2.11, 06-29-00]

16.15.2.12 LICENSURE BY ENDORSEMENT: Applicants for licensure by reciprocity from other states, must submit all of the requirements as set forth in 16.15.2.9 NMAC. All application information is subject to verification by the board.

[06-14-97; 16.15.2.12 NMAC - Rn, 16 NMAC 15.2.12, 06-29-00; A, 04-03-03]

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.

[06-14-97; 16.15.2.13 NMAC - Rn & A, 16 NMAC 15.2.13, 06-29-00; A, 04-03-03]

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 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) 20 continuing education contact hours for each year the applicant was not practicing as an occupational therapist or occupational therapy assistant, not to exceed 100 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).

[06-14-97; 16.15.2.14 NMAC - Rn & A, 16 NMAC 15.2.14, 06-29-00; A, 04-03-03; A, 08-29-05; A, 01/30/2015]

16.15.2.15 INACTIVE LICENSE:

A. A license in good standing may be transferred to inactive status upon written request to the board. Such request shall be made prior to the expiration of the license.

B. An annual inactive fee must be submitted to the board. (Refer to Part 6, Fee Schedule).

C. A licensee may reactivate the license upon submission of the following:

(1) A renewal form.

(2) Payment of the annual renewal fee for the year in which the licensee wishes to reactivate.

(3) Proof of continuing education units for each year of inactive status.

(4) Additional proof of competency as requested and prescribed by the board will be required after five years of an inactive license.

(5) Passage of the jurisprudence exam.

(6) Completion of a verification of employment form for licensees who have practiced outside New Mexico while on inactive status.

[06-14-97; 16.15.2.15 NMAC - Rn, 16 NMAC 15.2.15, 06-29-00; A, 04-03-03; A, 01/30/2015]

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 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 20 continuing education hours for each year of the lapsed New Mexico license;

not to exceed one 100 hours.

- (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, 08-29-05; A, 01/30/2015]

16.15.2.17 PROVISIONS FOR EMERGENCY LICENSURE:

A. Occupational therapists and occupational therapy assistants currently licensed and in good standing, or otherwise meeting the requirements for New Mexico licensure in a state in which a federal disaster has been declared, may be licensed in New Mexico during the four months following the declared disaster upon:

- (1) a completed application signed and notarized and accompanied by proof of identity, which may consist of a copy of a driver's license, passport or other photo identification issued by a governmental entity;
- (2) proof of successful completion of the national board for certification in occupational therapy (NBCOT) and New Mexico jurisprudence exam;
- (3) verification of licenses held in other states and verification of employment if applicable. (verification may be obtained by mail, fax or email, through online verification from the state of licensure)
- (4) proof or documentation of residency and employment in the area of the federal disaster.

B. The board may waive the following requirements for licensure:

- (1) application fee's prorated for four months;
- (2) the specific forms required under 16.15.2.9 NMAC if the applicant is unable to obtain documentation from the federal declared disaster areas.

C. Nothing in this section shall constitute a waiver of the requirements for licensure contained in the board's rules and regulations.

D. Licenses issued under (this emergency provision) shall expire four months following the date of issue, unless the board or an agent of the board approves a renewal application. Application for renewal shall be made on or before October 1, following the date of issue to avoid late renewal fees. The board reserves the right to request additional documentation, including but not limited to, recommendation forms and work experience verification forms prior to approving license renewal.

[16.15.2.17 NMAC - N/E, 11-16-05; A, 01/30/2015]

16.15.2.18 EMERGENCY LICENSURE TERMINATION:

A. The emergency license shall terminate upon the following circumstances:

- (1) the issuance of a permanent license under 16.15.2.9 NMAC; or
- (2) proof that the emergency license holder has engaged in fraud deceit, misrepresentation in procuring or attempting to procure a license under this section.

B. Termination of an emergency license shall not preclude application for permanent licensure.

[16.15.2.18 NMAC - N/E, 11-16-05]

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.

B. The information shall include:

(1) completed application and fee;

(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;

(3) proof of honorable discharge (DD214) or military identification card or proof of marriage for spousal status.

C. Electronic signatures will be acceptable for applications submitted pursuant to Sections 14-16-1 through 14-16-21 NMSA 1978.

[16.15.2.19 NMAC - N, 01/30/2015; A, 02/13/2015]

HISTORY of 16.15.2 NMAC:

Pre-NMAC History: Material in this Part was derived from that previously filed with State Records and Archives:

BOTP 84-1, Licensing Regulations, filed 12-10-84

BOTP 90-1, Licensing Regulations, filed 04-27-90

Rule 92-1, Licensing Regulations, filed 04-15-92

Rule 95-1, Licensing Regulations, filed 02-14-95

Rule 95-1, Licensing Regulations, filed 04-13-95.

History of the Repealed Material: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 15 OCCUPATIONAL THERAPISTS
PART 3 SUPERVISION

16.15.3.1 ISSUING AGENCY: Board of Examiners for Occupational Therapy.
[16.15.3.1 NMAC - Rp, 16.15.3.1 NMAC, 1/30/2015]

16.15.3.2 SCOPE: All those individuals who wish to practice occupational therapy in the state of New Mexico.
[16.15.3.2 NMAC - Rp, 16.15.3.2 NMAC, 1/30/2015]

16.15.3.3 STATUTORY AUTHORITY: Section 61-12A-5 NMSA 1978.
[16.15.3.3 NMAC - Rp, 16.15.3.3 NMAC, 1/30/2015]

16.15.3.4 DURATION: Permanent.
[16.15.3.4 NMAC - Rp, 16.15.3.4 NMAC, 1/30/2015]

16.15.3.5 EFFECTIVE DATE: January 30, 2015, unless a later date is cited at the end of a section.
[16.15.3.5 NMAC - Rp, 16.15.3.5 NMAC, 1/30/2015]

16.15.3.6 OBJECTIVE: To outline minimum supervision definitions and requirements.
[16.15.3.6 NMAC - Rp, 16.15.3.6 NMAC, 1/30/2015]

16.15.3.7 DEFINITIONS: In this section, the following terms have the meanings indicated:

A. “Aide” means a person who is not licensed by the board and who provides supportive services to occupational therapists and occupational therapy assistants. An aide shall function under the guidance and responsibility of the occupational therapist and may be supervised by the occupational therapist or an occupational therapy assistant for specifically selected routine tasks for which the aide has been trained and has demonstrated competency.

B. “Board” means the board of examiners for occupational therapy.

C. “Competence” refers to an individual’s capacity to perform job responsibilities.

D. “Competency” refers to an individual’s actual performance in a specific situation.

E. “Limited permit holder” means an individual who has completed the academic and fieldwork requirements of this Act for occupational therapists or occupational therapy assistants, has not yet taken or received the results of the entry level certification examination, and has applied for and been granted limited permit status.

F. “Occupational therapist” means a person who holds an active license to practice occupational therapy in New Mexico.

G. “Occupational therapy assistant” means a person having no less than an associate degree in occupational therapy and holding an active license to practice occupational therapy in New Mexico who assists an occupational therapist under the supervision of the occupational therapist.

H. “Supervision” means a cooperative process in which two or more people participate in a joint effort to establish, maintain, and elevate a level of competence and performance. Within the scope of occupational therapy practice, supervision is aimed at ensuring the safe and effective delivery of occupational therapy services and fostering professional competence and development.

[16.15.3.7 NMAC - Rp, 16.15.3.7 NMAC, 1/30/2015]

16.15.3.8 SUPERVISION:

A. Occupational therapy assistants: supervision involves guidance and oversight related to the delivery of occupational therapy services and the facilitation of professional growth and competence. It is the responsibility of the occupational therapist and the occupational therapy assistant to seek the appropriate quality and frequency of supervision to ensure safe and effective occupational therapy service delivery.

(1) The specific frequency, methods, and content of supervision may vary by practice setting and is dependent upon the:

(a) complexity of client needs;

(b) number and diversity of clients;

(c) skills of the occupational therapist and the occupational therapy assistant;

- (d) type of practice setting;
 - (e) requirements of the practice setting; and
 - (f) other regulatory requirements.
 - (2) More frequent supervision may be necessary when:
 - (a) the needs of the client and the occupational therapy process are complex and changing;
 - (b) the practice setting provides occupational therapy services to a large number of clients with diverse needs; or
 - (c) the occupational therapist and occupational therapy assistant determine that additional supervision is necessary to ensure safe and effective delivery of occupational therapy services.
 - (3) A variety of types and methods of supervision may be used. Methods may include direct face-to-face contact and indirect contact. Examples of methods or types of supervision that involve direct face-to-face contact include but are not limited to observation, modeling, co-treatment, discussions, teaching, instruction, and video conferencing. Examples of methods or types of supervision that involve indirect contact include but are not limited to phone conversations, written correspondence, electronic exchanges, and other methods using secure telecommunication technology. All methods should be compliant with confidentiality requirements of government agencies, facilities, employers, or other appropriate bodies.
 - (4) Occupational therapists and occupational therapy assistants must document a supervision plan and supervision contacts. Documentation shall include the:
 - (a) frequency of supervisory contact;
 - (b) method(s) or type(s) of supervision;
 - (c) content areas addressed;
 - (d) names and credentials of the persons participating in the supervisory process.
- [16.15.3.8 NMAC - Rp, 16.15.3.8 NMAC, 1/30/2015]

16.15.3.9 TASK DELEGATION: Regardless of the setting in which occupational therapy services are delivered, the occupational therapist and the occupational therapy assistant assume the following generic responsibilities during evaluation, intervention, and outcomes evaluation.

- A. Evaluation.**
 - (1) The occupational therapist directs the evaluation process.
 - (2) The occupational therapist is responsible for directing all aspects of the initial contact during the occupational therapy evaluation, including:
 - (a) determining the need for service;
 - (b) defining the problems within the domain of occupational therapy that need to be addressed;
 - (c) determining the client's goals and priorities;
 - (d) establishing intervention priorities;
 - (e) determining specific further assessment needs; and
 - (f) determining specific assessment tasks that can be delegated to the occupational therapy assistant.
 - (3) The occupational therapist initiates and directs the evaluation, interprets the data, and develops the intervention plan.
 - (4) The occupational therapy assistant contributes to the evaluation process by implementing delegated assessments and by providing verbal and written reports of observations and client capacities to the occupational therapist.
 - (5) The occupational therapist interprets the information provided by the occupational therapy assistant and integrates that information into the evaluation and decision making process.
- B. Intervention planning.**
 - (1) The occupational therapist has overall responsibility for the development of the occupational therapy intervention plan.
 - (2) The occupational therapist and the occupational therapy assistant collaborate with the client to develop the plan.
 - (3) The occupational therapy assistant is responsible for being knowledgeable about evaluation results and for providing input into the intervention plan, based on client needs and priorities.
- C. Intervention implementation.**
 - (1) The occupational therapist has overall responsibility for implementing the intervention.

(2) Then delegating aspects of the occupational therapy intervention to the occupational therapy assistant, the occupational therapist is responsible for providing appropriate supervision.

(3) The occupational therapy assistant is responsible for being knowledgeable about the client's occupational therapy goals.

(4) The occupational therapy assistant selects, implements, and makes modifications to therapeutic activities and interventions that are consistent with demonstrated competency levels, client goals, and the requirements of the practice setting.

D. Intervention review.

(1) The occupational therapist is responsible for determining the need for continuing, modifying, or discontinuing occupational therapy services.

(2) The occupational therapy assistant contributes to this process by exchanging information with and providing documentation to the occupational therapist about the client's responses to and communications during intervention.

E. Outcome evaluation.

(1) The occupational therapist is responsible for selecting, measuring, and interpreting outcomes that are related to the client's ability to engage in occupations.

(2) The occupational therapy assistant is responsible for being knowledgeable about the client's targeted occupational therapy outcomes and for providing information and documentation related to outcome achievement.

(3) The occupational therapy assistant may implement outcome measurements and provide needed client discharge resources.

[16.15.3.9 NMAC - Rp, 16.15.3.9 NMAC, 1/30/2015]

HISTORY of 16.15.3 NMAC:

Pre-NMAC History:

Material in this Part was derived from that previously filed with State Records and Archives:

BOTP 84-1, Licensing Regulations, filed 12-10-84

BOTP 90-1, Licensing Regulations, filed 04-27-90

Rule 92-1, Licensing Regulations, filed 04-15-92

Rule 95-1, Licensing Regulations, filed 02-14-95

Rule 95-1, Licensing Regulations, filed 04-13-95.

History of the Repealed Material: 16.15.3 NMAC, Occupational Therapists - Supervision, filed 06-19-2000, repealed 1/30/2015.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 15 OCCUPATIONAL THERAPISTS
PART 4 CONTINUING EDUCATION REQUIREMENTS

16.15.4.1 ISSUING AGENCY: Board of Examiners for Occupational Therapy.
[16.15.4.1 NMAC - Rp, 16.15.4.1 NMAC, 1/30/15]

16.15.4.2 SCOPE: All those individuals who wish to practice occupational therapy in the state of New Mexico.
[16.15.4.2 NMAC - Rp, 16.15.4.2 NMAC, 1/30/15]

16.15.4.3 STATUTORY AUTHORITY: Section 61-12A-15 NMSA 1978.
[16.15.4.3 NMAC - Rp, 16.15.4.3 NMAC, 1/30/15]

16.15.4.4 DURATION: Permanent.
[16.15.4.4 NMAC - Rp, 16.15.4.4 NMAC, 1/30/15]

16.15.4.5 EFFECTIVE DATE: January 30, 2015, unless a later date is cited at the end of a section.
[16.15.4.5 NMAC - Rp, 16.15.4.5 NMAC, 1/30/15]

16.15.4.6 OBJECTIVE: To inform licensees of continuing education requirements for license renewal.
[16.15.4.6 NMAC - Rp, 16.15.4.6 NMAC, 1/30/15]

16.15.4.7 DEFINITIONS: “Continuing education” means any organized educational program relating to the topic of health, designed to expand a licensee’s knowledge beyond the basic education requirements for occupational therapists and occupational therapy assistants as recognized by the board. Topics include, but are not limited to, administration, education, communication and clinical practice skills. One “continuing education contact hour” is equivalent to 60 minutes. One continuing education contact hour is equivalent to one continuing education unit.
[16.15.4.7 NMAC - Rp, 16.15.4.7 NMAC, 1/30/15]

16.15.4.8 ANNUAL CONTINUING EDUCATION REQUIREMENTS:

A. Every licensed occupational therapist and occupational therapy assistant must earn a minimum of 20-continuing education contact hours per year during each year of licensure. Continuing education contact hours must be earned prior to license renewal the following year. The first year during which 20-contact hours must be earned is the year beginning on October 1st following license issuance and ending on the following September 30th. Occupational therapists and occupational therapy assistants licensed during the first year will be expected to pay the annual renewal fee and may submit continuing education contact hours during this first year for carryover. A maximum of 20 contact hours may be carried over.

B. No license will be renewed in the absence of satisfactory evidence that the required continuing education contact hours have been earned.

C. The board office will mail a renewal application to each licensee at least 30 days prior to the expiration date of the license.

D. Each licensee is responsible for submitting the required renewal fee and continuing education by the expiration.

E. Each licensee is responsible for filing address changes and maintaining a current address with the board office.

[16.15.4.8 NMAC - Rp, 16.15.4.8 NMAC, 1/30/15]

16.15.4.9 APPROVAL OF CONTINUING EDUCATION:

A. No licensee may obtain credit for any continuing education contact hours without approval of those continuing education contact hours by the board.

B. Prior approval of continuing education contact hours may be obtained upon request by the licensee or continuing education provider. Final determination of values and approval of continuing education contact hours will remain at the discretion of the board.

C. Continuing education contact hours may be earned in the following ways:

(1) **Attendance at a seminar, workshop, webinar, on-line course, or program;** applicants must provide all of the following:

(a) program agenda with number of contact hours;
(b) evidence that the program attended was sponsored by a component of the American occupational therapy association or some other sponsor approved by the board for continuing education credit;

(c) statement of the program's subject matter and stated objectives;
(d) statement indicating the instructor's background/expertise; and
(e) proof of actual program attendance; such proof shall be a certificate of completion signed by the presenter or program sponsor.

(2) **Preparation and presentation of a workshop/in-service.** Credit may be given only once for preparation or presentation of the same workshop and the board will determine the number of continuing education contact hours approved. Applicant must provide proof of preparation and presentation. Proof of preparation may be an outline, copy of handouts, presentation slides, and a copy of the agenda showing name of licensee as presenter. Contact hours for the presenter will be calculated at three times the number of hours of audience participation (e.g. a two hour workshop equals six hours for the presenter). A maximum of 12-contact hours per renewal year is allowed in this area.

(3) **Completion of accredited university college or community courses.** Applicant must provide the name of the course; number of credit hours; inclusive dates of attendance; completed transcript or grade report with a passing grade of "C" or better, name of instructor and institution; and a brief summary indicating the course's relationship to the licensee's present or future position in the field of occupational therapy. Non-credit community college courses may be accepted at the board's discretion. A maximum of 20-contact hours is allowed for a three credit course; a maximum of 15-contact hours is allowed for a two credit course; and a maximum of 10 contact hours is allowed for a one credit course.

(4) **Attendance at workplace in-service programs.** The applicant must provide the name of the program; number of hours spent in the program; inclusive dates of attendance; name of the instructor or supervisor of the program; name of the institution; and a brief course summary indicating the course's relationship to the philosophical tenets of occupational therapy. A maximum of 10-contact hours will be allowed in this area.

(5) **Reading a book.** The applicant must provide the name of the book; number of pages; name of the author; and a typewritten summary explaining how the information obtained from the book applies to physical therapy philosophical tenets of occupational therapy. The board may approve, on an individual basis, up to two-contact hours for each book read. A maximum of four-contact hours will be allowed in this area.

(6) **Writing a book.** The applicant must provide a copy of the book written. The book will be returned to the licensee upon request.

(a) The book must have been copyrighted in the year for which the continuing education contact hours are requested.

(b) Up to 40-contact hours may be awarded at the board's discretion.

(7) **Audio or visual Media.** An applicant must provide the title of the audio and visual media; the length of presented material, time; name of the presenter; and a summary of the presentation and how it pertains to the philosophical tenets of occupational therapy. A maximum of 10-contact hours per year is allowed in this area.

(8) **Presentation of a paper.** The applicant must provide a copy of the paper along with the duration and location of the presentation. The presentation must have been made in the year for which the continuing education contact hours are requested. Credit may be given only once for any individual presentation and the board will determine the number of continuing education contact hours approved.

(9) **Publication of a paper or article.** The applicant must provide a copy of the published paper, which must have been published prior to license renewal. Publication must be in a recognized journal or publication. The board will determine the number of continuing education contact hours approved.

(10) **Conducting research.** The board will determine the number of continuing education contact hours approved. The applicant must provide the following:

(a) title and description of research project, including brief timeline;
(b) names of other persons involved in project (i.e., co-investigators or supervisors);

(c) a brief statement indicating philosophical tenants of occupational therapy;
(d) provide a copy of the completed annual research report.

(11) **Specialty/certification programs.** Applicants or licensees wishing to receive continuing education for certification programs must submit a certificate of completion signed by the program sponsor. The licensee or applicant must indicate how the specialty/certification maintains the philosophical tenets of occupational therapy. The board will determine the number of continuing education contact hours approved.

(12) **Supervising level II fieldwork.** Applicants should provide a copy of the student evaluation (cover and signature pages only). The student's name should be blacked out for confidentiality. A maximum of twelve (12) contact hours will be approved for each OT fieldwork II rotation of 12 weeks. A maximum of eight-contact hours will be approved for each OTA fieldwork II rotation of eight weeks. A maximum of 12-contact hours per renewal year is allowed in this area.

(13) **Mentoring.** Applies to an OT or OTA who has been practicing at least one year prior to entering a new area of practice only. Mentoring shall occur for a minimum of six months and no longer than one year. The mentor shall have at least one year of experience in the specialty area of practice and not be the direct supervisor of the mentored therapist. The "mentoring log" should be used as proof of hours mentored. Both the mentor and mentored will be allowed up to a maximum of five-contact hours per year.

D. Credit screening procedures are as follows:

(1) the board or its designee must approve each request for continuing education credit;
(2) the licensee will be informed of the board's action within 30-calendar days of receipt of the request; and

(3) the licensee whose request has been denied may appeal to the board within 30-calendar days of the notification of the board's decision.

E. Continuing education audit.

(1) The board shall audit a percentage of renewal applications each year to verify the continuing education requirement.

(2) If a notice of audit letter is received with the annual renewal form, evidence of continuing education hours earned during the renewal year must be submitted to the board as requested and as required in the Occupational Therapy Act and by this rule.

(3) If the licensee is not audited, all documentation of attendance and agendas should be retained by the licensee for a minimum of three years immediately preceding the current renewal.

(4) The board reserves the right to audit continuing education attendance certificates whenever there is reasonable doubt the courses submitted, dates, or hours may be incorrect.

(5) Proof of attendance for all continuing education programs is required on all renewal applications submitted after the expiration date.

F. Credit for excess continuing education contact hours accumulated may be used only during the following year. Documentation of excess continuing education contact hours which are being submitted for credit must be submitted with the annual renewal fee and application. The board will allow a maximum of 20-continuing education contact hours to be carried over into the next licensing year.

[16.15.4.9 NMAC - Rp, 16.15.4.9 NMAC, 1/30/15]

HISTORY of 16.15.4 NMAC:

Pre-NMAC History:

Material in this Part was derived from that previously filed with State Records and Archives:

BOTP 84-3, Continuing Education Regulations, filed 12-10-84

BOTP 89-3, Continuing Education Regulations, filed 10-31-89

BOTP 90-3, Continuing Education Regulations, filed 04-27-90

Rule 92-3, Continuing Education Regulations, filed 04-15-92

[Rp, 16 NMAC 15.4.3A, 06-29-00]

History of the Repealed Material: 16.15.4 NMAC, Occupational Therapists - Continuing Education Requirements, filed 06-19-2000, repealed 1/30/2015.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 15 OCCUPATIONAL THERAPISTS
PART 5 DISCIPLINARY PROCEEDINGS

16.15.5.1 ISSUING AGENCY: Board of Examiners for Occupational Therapy
[06-14-97; 16.15.5.1 NMAC - Rn & A, 16 NMAC 15.5.1, 06-29-00]

16.15.5.2 SCOPE: All those individuals who wish to practice occupational therapy in the state of New Mexico.
[06-14-97; 16.15.5.2 NMAC - Rn, 16 NMAC 15.5.2, 06-29-00]

16.15.5.3 STATUTORY AUTHORITY: Section 61-12A-21 and 61-12A-22 NMSA 1978.
[06-14-97; 16.15.5.3 NMAC - Rn, 16 NMAC 15.5.3, 06-29-00]

16.15.5.4 DURATION: Permanent.
[06-14-97; 16.15.5.4 NMAC - Rn, 16 NMAC 15.5.4, 06-29-00]

16.15.5.5 EFFECTIVE DATE: June 14, 1997, unless a later date is cited at the end of a section.
[06-14-97; 16.15.5.5 NMAC - Rn & A, 16 NMAC 15.5.5, 06-29-00]

16.15.5.6 OBJECTIVE: To establish the procedures for filing complaints against licensees and to further define actions by a licensee which are considered incompetent or unprofessional practice.
[06-14-97; 16.15.5.6 NMAC - Rn, 16 NMAC 15.5.6, 06-29-00]

16.15.5.7 DEFINITIONS:

- A. "Applicant" means the person who has applied for a license.
 - B. "Board" means the board of examiners for occupational therapy.
 - C. "Complaint chairperson" means the professional board member who has been designated to review complaints.
 - D. "Complaint manager" means the board administrator or any member of the board who may be appointed by the board chairperson.
 - E. "License" means certificate, permit, or other authorization to engage in the profession of occupational therapy.
 - F. "Revoke a license" means to prohibit the conduct authorized by the license.
 - G. "Suspend a license" means to prohibit, for a stated period of time, the conduct authorized by the license. "Suspend a license" also means to allow, for a stated period of time, the conduct authorized by the license subject to conditions which are reasonably related to the grounds for suspension, including any conditions of probation.
- [06-14-97; 16.15.5.7 NMAC - Rn, 16 NMAC 15.5.7, 06-29-00]

16.15.5.8 CONDUCT OF HEARING REGULATIONS

A. **Opportunity for a licensee or applicant to have a hearing:** Pursuant to the Uniform Licensing Act, 61-1-1 to 61-1-33 NMSA 1978, every licensee or applicant shall be afforded notice and an opportunity to be heard before the board shall have authority to take any action, the effect of which would be:

- (1) to deny a license after examination for any cause other than failure to pass an examination or failure to meet educational or administrative requirements for the issuance of a license;
- (2) to deny a license for which application has been duly made on the basis of reciprocity;
- (3) to withhold the renewal of a license for any cause other than failure to pay the required renewal fee;
- (4) to suspend a license; and
- (5) to revoke a license.

B. **Limitations:** Any action which would have the effect of denying, revoking, or suspending a license shall be governed by the Uniform Licensing Act, 61-1-1, et seq. NMSA 1978.

C. **Complaint procedures:**

(1) **Inquiries regarding making a complaint:** A complaint may be initiated by any person through a telephone call, a written complaint, or a walk-in complaint presented to the board office. Only those

complaints that are in writing on the official occupational therapy complaint form will be formally addressed by the Board. The forms required for an official complaint can be obtained from the board office, board of examiners for occupational therapy, P.O. Box 25101, Santa Fe, NM, 87504.

(2) **Procedures for receipt of a complaint at the board's office:** the board administrator, or any member of the board who may be appointed by the board chairperson, will act as the complaint manager for the procedures outlined below. Upon receipt of a written, signed complaint, or upon the board's own action as initiated by a vote of the majority of the members of the board acting at a duly convened meeting of the board, if the board has reasonable cause to believe that the occupational therapy act or the rules and regulations promulgated pursuant thereto have been or are being violated, the complaint manager shall:

- (a) log in the date the complaint is received in the board office;
- (b) determine that the subject of the complaint is a licensed occupational therapist (OT), a licensed occupational therapy assistant (OTA), a person practicing on a provisional permit or a person not licensed to practice;
- (c) assign a complaint number and set up an individual file. Complaint numbering shall begin in January of each year;
- (d) forward the complaint to the professional board member who has been designated to review complaints (complaint chairperson); and
- (e) send a certified letter to the complainant confirming receipt of the complaint.

(3) **Review by the complaint committee:**

(a) The complaint chairperson and complaint manager will comprise the complaint committee, and will review all written, signed complaints filed against a licensee. The complaint committee shall provide the subject of the complaint ("respondent") with a copy of the complaint within 30 calendar days of receipt of the complaint in the board office, unless the complaint committee reasonably determines that disclosure of the complaint at that time will substantially and materially impair the integrity or efficacy of the investigation. Nondisclosure at the initial stage of the complaint process shall be the exception, rather than the rule.

(b) Unless it has been determined that disclosure of the complaint will substantially and materially impair the integrity or efficacy of the investigation, so that the investigation is proceeding without notice to the respondent at the initial stage, the respondent shall be provided 20 calendar days from the date of signature on the receipt of certified mail in which to file a written response to the complaint, and shall be advised that he/she is required to provide all documents and exhibits in support of his/her position.

(c) If the complaint committee has determined that it is in the best interest of the investigation to withhold disclosure of the complaint during the initial stage of the investigation, pursuant to Subparagraph (a) of Paragraph (3) of Subsection C of 16.15.5.8 NMAC, above, a copy of the complaint shall be provided to the respondent no later than at the time of the issuance of a notice of contemplated action ("NCA"), if any.

(d) If the complaint chairperson and the complaint manager determine that further information is needed, the committee may employ an investigator and/or experts to review complaints as part of its investigation.

(e) The purpose of an investigation is to gather further data regarding the complaint and to verify facts. All complaints, unless dismissed for lack of jurisdiction, will be investigated. Investigations may include: writing letters seeking further information; making phone calls to administrators or supervisors; making phone calls to witnesses; making onsite visits at facilities providing occupational therapy services and requesting official patient records.

(f) Upon completion of the investigation, the investigator will prepare a written report which includes its factual findings and conclusions, all pertinent exhibits, and which makes recommendations to the Board as to a course of action.

(g) If the complaint chairperson and the complaint manager agree that the board does not have jurisdiction, both the complainant and respondent will be notified in writing by certified letter. The letter will explain why the case cannot be accepted for investigation and/or action (e.g., due to the statute of limitations, or the nature of the complaint being a fee dispute, or there being no violation of the Occupational Therapy Act or the rules and regulations promulgated thereto), or it may note that the complaint can be referred to another agency. The letter will come from the board and may be signed by the board chairperson or, upon delegation by the board chairperson, by the complaint manager on behalf of the chairperson.

D. **Review by the Board:**

(1) Unless the complaint committee dismisses the complaint pursuant to Subparagraph (g) of Paragraph (3) of Subsection C of 16.15.5.8 NMAC above, it shall present its report and recommendations(s) to the

board. The matter shall be referred to only by the assigned case number, and the identities of the parties shall not be disclosed to the board until and unless an NCA is issued.

(2) The complaint chairperson shall not vote on the decision regarding the disposition of the complaint and shall not participate in any adjudicatory hearing or vote on any disciplinary action against the applicant or licensee arising out of the complaint committee's investigation. Decisions affecting complaints require a quorum of the Board.

(3) Subject to Paragraph (2) of Subsection D of 16.15.5.8 NMAC, above, after the complaint committee's report has been voted upon by the board, the case will be closed, if the board determines that there is not sufficient evidence or cause to issue an NCA. A certified letter from the board will be sent within 30 calendar days of the date of the board's decision to both the complainant and respondent. The letter will state the board's action and reasons for its decision.

(4) Subject to Paragraph (2) of Subsection D of 16.15.5.8 NMAC, above, after the complaint committee's report has been reviewed by the board, the board may vote to issue an NCA if it determines there is sufficient evidence or cause to believe that the respondent has violated the Occupational Therapy Act, or the rules and regulations promulgated pursuant to the act.

(5) If the board votes to issue an NCA, a complete copy of the complaint committee's report, including exhibits, shall be forwarded to the attorney general's office for assignment of a prosecuting attorney for review and the attorney general's decision as to whether there is a sufficient basis to prosecute.

(6) Following the issuance of a notice of contemplated action, the board may (at its option) authorize a board member or the prosecutor to confer with the applicant or licensee for the purpose of seeking settlement of the complaint. Such settlement must be approved by a quorum of the board, must be with the consent of the applicant or licensee, and shall include a knowing and intentional waiver by the applicant or the licensee of his/her rights to hearing under the Uniform Licensing Act.

E. **Disciplinary hearings:** All disciplinary hearings shall be conducted in accordance with the Uniform Licensing Act.

[06-14-97; 16.15.5.8 NMAC - Rn & A, 16 NMAC 15.5.8, 06-29-00; A, 04-03-03]

16.15.5.9 SANCTIONS:

A. "Unprofessional conduct" as used in the Occupational Therapy Act and in the rules and regulations of the New Mexico board of examiners for occupational therapy shall include, but shall not be limited to, the following types of acts or omissions:

(1) any violation of the code of ethics, as determined by the New Mexico board of examiners for occupational therapy;

(2) making false statements or providing false information in connection with an application for licensure or for licensure renewal;

(3) engaging in false, misleading, or deceptive advertising;

(4) violation of any provision of the New Mexico Occupational Therapy Act, as may be amended from time-to-time, or violating any rules or regulations of the board promulgated pursuant thereto;

(5) harassment, or undue to improper intimidation of a patient/client, employee, colleague or other person in the role or context of the licensee's or applicant's status as an occupational therapist or occupational therapy assistant, including, but not limited to, assault or battery on any such person;

(6) sexual harassment or abuse of a patient/client, employee, colleague, or other person in the role or context of the licensee's or applicant's status as an occupational therapist or occupational therapy assistant;

(7) any failure to possess and apply the knowledge, or to use the skill and care ordinarily used by reasonable well-qualified occupational therapists or occupational therapy assistants under similar circumstances, giving due consideration to the locality involved;

(8) obtaining, or attempting to obtain, any compensation or other consideration by fraud or deceit;

(9) misrepresentation or falsification of credentials, including, but not limited to, education, training, experience or competence;

(10) violation of any federal, state or local law or ordinance which relates to the practice for which the individual has been licensed or for which the person is an applicant for licensure;

(11) conviction of a crime, the circumstances of which substantially relate to the practice of occupational therapy, or which indicate an inability to safely and proficiently engage in the practice of occupational therapy;

(12) impairment of the licensee's or applicant's ability to practice occupational therapy as a result of alcohol or use of other drugs; and

(13) imposition of discipline upon the licensee or applicant for licensure by any other jurisdiction in which the licensee or applicant is licensed;

B. Pursuant to the Occupational Therapy Act, the board, in its sole and sound discretion, may impose any of the following sanctions against a licensee or applicant for licensure upon a finding of a violation of the New Mexico Occupational Therapy Act or the rules and regulations, or code of ethics, adopted by the board pursuant to the act, including for those acts of "unprofessional conduct" defined in Section 9 of this rule:

- (1) denial of application for licensure;
- (2) refusal to renew licensure;
- (3) written reprimand;
- (4) written censure;
- (5) imposition of probationary conditions on a license for a specified time period;
- (6) restrictions or limitations on the scope of a practice;
- (7) the requirement that the licensee or applicant complete a program of remedial education

or treatment;

(8) monitoring of the practice by a supervisor approved by the board;

(9) corrective action as specified by the board;

(10) suspension of a license;

(11) revocation of a license;

(12) in addition to or in lieu of any of the foregoing, payment of a fine for each violation found, not to exceed \$1000.00, unless a greater amount is provided by law; and

(13) in addition to, or in lieu of any of the foregoing, a refund to the consumer of fees that were billed to and collected from the consumer by the licensee.

C. Any licensee whose license has been revoked may reapply for licensure one year from the effective date of the revocation.

(1) The board shall have discretion to approve or to reject any application for reinstatement of the license following the one year period of revocation.

(2) If the board determines that rejection of the application for reinstatement of the license will be considered, it shall do so only in accordance with the notice and hearing provisions of the Uniform Licensing Act.

(3) No application for reinstatement shall be granted unless all fines and costs assessments related to the license revocation proceeding shall have been paid in full.

[06-14-97; 16.15.5.9 NMAC - Rn, 16 NMAC 15.5.9, 06-29-00; A, 04-03-03]

HISTORY of 16.15.3 NMAC:

Pre-NMAC History:

Material in this Part was derived from that previously filed with State Records and Archives:

BOTP 84-2, Conduct of Hearing Regulations, filed 12-10-84

BOTP 90-2, Disciplinary Proceedings, Conduct of Hearing Regulations, filed 4-27-90

Rule 95-2 Disciplinary Proceedings, Conduct of Hearing Regulations, filed 2-14-95

Rule 95-2 Disciplinary Proceedings, Conduct of Hearing Regulations, filed 2-17-95.

History of the Repealed Material: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 15 OCCUPATIONAL THERAPISTS
PART 6 FEE SCHEDULE

16.15.6.1 ISSUING AGENCY: Board of Examiners for Occupational Therapy.
[06-14-97; 16.15.6.1 NMAC - Rn & A, 16 NMAC 15.6.1, 06-29-00]

16.15.6.2 SCOPE: All those individuals who wish to practice occupational therapy in the state of New Mexico.
[06-14-97; 16.15.6.2 NMAC - Rn, 16 NMAC 15.6.2, 06-29-00]

16.15.6.3 STATUTORY AUTHORITY: Section 61-12A-18 NMSA 1978.
[06-14-97; 16.15.6.3 NMAC - Rn, 16 NMAC 15.6.3, 06-29-00]

16.15.6.4 DURATION: Permanent.
[06-14-97; 16.15.6.4 NMAC - Rn, 16 NMAC 15.6.4, 06-29-00]

16.15.6.5 EFFECTIVE DATE: June 14, 1997, unless a later date is cited at the end of a section.
[06-14-97; 16.15.6.5 NMAC - Rn & A, 16 NMAC 15.6.5, 06-29-00]

16.15.6.6 OBJECTIVE: To outline fees for license application, license verification, examination, license renewal, inactive status, late renewal, and administrative fees.
[06-14-97; 16.15.6.6 NMAC - Rn, 16 NMAC 15.6.6, 06-29-00]

16.15.6.7 DEFINITIONS: [RESERVED]
[06-14-97; 16.15.6.7 NMAC - Rn, 16 NMAC 15.6.7, 06-29-00]

16.15.6.8 SCHEDULE OF FEES: (note, these fees are nonrefundable.)

- A.** Application for full (non-provisional) licensure received between September 1 and May 31:
 - (1) occupational therapist: \$110.00
 - (2) occupational therapy assistant: \$100.00
 - B.** applications for full (non-provisional) licensure received between June 1 and August 31: \$50.00
 - (1) occupational therapist: \$60.00
 - (2) occupational therapy assistant: \$50.00
 - C.** Provisional permit: \$25.00
 - D.** List of licensees: \$50.00
 - E.** Labels of addresses: \$80.00
 - F.** Electronic data disk: \$80.00
 - G.** Verification of licensure: \$20.00
 - H.** Jurisprudence exam: \$10.00
 - I.** Annual renewal fees:
 - (1) occupational therapist: \$85.00
 - (2) occupational therapy assistant: \$60.00
 - J.** Duplicate of license (issued only in cases of loss or if licensee wishes name change due to divorce, marriage, etc.): \$15.00
 - K.** Penalty fee for renewals not postmarked by October 1 of the renewal year: \$100.00
 - L.** Continuing education approval for course provider: \$25.00
 - M.** Copy charges for public documents (per page): \$1.00
 - N.** Inactive status fees:
 - (1) initial inactive status fee: \$15.00
 - (2) annual inactive status fee: \$15.00
 - (3) reactivation from inactive status fees:
 - (a) occupational therapist: \$70.00
 - (b) occupational therapy assistant: \$50.00
 - O.** Returned check charge (per check): \$20.00
- [6-14-97; 16.15.6.8 NMAC - Rn & A, 16 NMAC 15.6.8, 06-29-00; A, 04-03-03; A, 08-29-05; A, 01/30/2015]

HISTORY of 16.15.6 NMAC:

Pre-NMAC History: none.

History of the Repealed Material: [RESERVED]

Other History: 16 NMAC 15.6, Fee Schedule, effective 6-14-97.

Board of Examiners for Occupational Therapy



Statute Article 12A

Contents

61-12A-1. Short title.	29
61-12A-2. Purpose.	29
61-12A-3. Definitions.	29
61-12A-4. Occupational therapy services.	30
61-12A-5. Supervision; required; defined.	31
61-12A-6. License required.	32
61-12A-7. Exemptions.	32
61-12A-8. Board created.	32
61-12A-9. Board; powers and duties.	33
61-12A-10. Board; administrative procedures.	34
61-12A-11. Requirements for licensure.	34
61-12A-12. Examinations.	35

61-12A-13. Provisional permits.	35
61-12A-14. Licensure by endorsement.	35
61-12A-15. License renewal.	35
61-12A-16. Display of license.	36
61-12A-17. Inactive licenses.	36
61-12A-18. Fees.	36
61-12A-19. Uniform Licensing Act.	36
61-12A-20. Fund created.	36
61-12A-21. Penalties.	37
61-12A-22. Disciplinary action; denial, suspension or revocation.	37
61-12A-23. Criminal Offender Employment Act.	37
61-12A-24. Termination of agency life; delayed repeal.	37
61-12A-25. Applicability to other health professions.	37

ARTICLE 12A
Occupational Therapy

61-12A-1. Short title. (Repealed effective July 1, 2022.)

Chapter 61, Article 12A NMSA 1978 may be cited as the "Occupational Therapy Act".

61-12A-2. Purpose. (Repealed effective July 1, 2022.)

It is the purpose of the Occupational Therapy Act to provide for the regulation of persons offering occupational therapy services to the public in order to safeguard the public health, safety and welfare; to protect the public from being misled by incompetent and unauthorized persons; to assure the highest degree of professional conduct on the part of occupational therapists and occupational therapy assistants; and to assure the availability of occupational therapy services of high quality to persons in need of such services.

61-12A-3. Definitions. (Repealed effective July 1, 2022.)

As used in the Occupational Therapy Act:

- A. "board" means the board of examiners for occupational therapy;
- B. "censure" means a formal expression of disapproval that is publicly announced;
- C. "denial of license" means that a person is barred from becoming licensed to practice in accordance with the provisions of the Occupational Therapy Act either indefinitely or for a certain period;
- D. "licensee" means an occupational therapist or occupational therapy assistant, as appropriate;
- E. "occupational therapist" means a person who holds an active license to practice occupational therapy in New Mexico in accordance with board rules;
- F. "occupational therapy" means the therapeutic use of occupations, including everyday life activities with persons across the life span, including groups, populations or organizations, to enhance or enable participation, performance or function in roles, habits and routines in home, school, workplace, community and other settings. Occupational therapy services are provided for habilitation, rehabilitation and the promotion of health and wellness to those clients who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation or participation restriction. "Occupational therapy" includes addressing the physical, cognitive, psychosocial, sensory-perceptual and other aspects of performance in a variety of contexts and environments to support engagement in occupations that affect physical and mental health, well-being and quality of life. Occupational therapy uses everyday life activities to promote mental health and support functioning in people with or at risk of experiencing a range of mental health disorders, including psychiatric, behavioral, emotional and substance abuse disorders;
- G. "occupational therapy assistant" means a person having no less than an associate degree in occupational therapy and holding an active license to practice occupational therapy in New Mexico who assists in the practice of occupational therapy under the supervision of the occupational therapist in accordance with board rules;
- H. "person" means an individual, association, partnership, unincorporated organization or corporate body;
- I. "probation" means that continued licensure is subject to fulfillment of specified conditions such as monitoring, education, supervision or counseling;

- J. "reprimand" means a formal expression of disapproval that is retained in the licensee's file but not publicly announced;
- K. "revocation" means permanent loss of licensure; and
- L. "suspension" means the loss of licensure for a certain period, after which the person may be required to apply for reinstatement.

61-12A-4. Occupational therapy services. (Repealed effective July 1, 2022.)

The practice of occupational therapy includes the following processes and services:

- A. evaluation of factors affecting all areas of occupation, including activities of daily living, instrumental activities of daily living, rest and sleep, education, work, productivity, play, leisure and social participation; including:
 - (1) client factors, including neuromuscular, sensory, visual, mental, cognitive and pain factors and body structures, including cardiovascular, digestive, integumentary and genitourinary systems and structures related to movement;
 - (2) habits, routines, roles and behavior patterns;
 - (3) cultural, physical, environmental, social and spiritual contexts and activity demands that affect performance; and
 - (4) performance skills, including motor process and communication and interaction skills;
- B. activity analysis to determine activity demands of occupations performed;
- C. design, implementation and modification of therapeutic interventions, including the following activities related to selection of intervention strategies to direct the process of interventions:
 - (1) establishment, remediation or restoration of a skill or ability that has not yet developed, is impaired or is in decline;
 - (2) compensation, modification or adaptation of activity or environment to enhance performance or to prevent injuries, disorders or other conditions;
 - (3) retention, maintenance and enhancement of skills and capabilities without which performance in everyday life activities would decline;
 - (4) promotion of health and wellness, including the use of self-management strategies to enable or enhance performance in everyday life activities;
 - (5) prevention of barriers to performance, including injury and disability prevention; and
 - (6) interventions and procedures to promote or enhance safety and performance in areas of occupation, including:
 - (a) therapeutic use of occupations, exercises and activities;
 - (b) training in self-care, self-management, health management and maintenance, home management, community-work reintegration, school activities and work performance;

- (c) development, remediation or compensation of neuromusculoskeletal, sensory- perceptual, sensory-integrative and modulation, visual, mental and cognitive functions, pain tolerance and management, developmental skills and behavioral skills;
 - (d) therapeutic use of self, including one's personality, insights, perceptions and judgments, as part of the therapeutic process;
 - (e) education and training of persons, including family members, caregivers, groups, populations and others;
 - (f) care coordination, case management and transition services;
 - (g) consultative services to groups, programs, organizations or communities;
 - (h) modification of home, work, school and community environments and adaptation of processes, including the application of ergonomic principles;
 - (i) assessment, design, fabrication, application, fitting and training in seating and positioning, assistive technology, adaptive devices and orthotic devices and training in the use of prosthetic devices;
 - (j) assessment, recommendation and training in techniques to enhance functional mobility, including management of wheelchairs and other mobility devices;
 - (k) low-vision rehabilitation;
 - (l) driver rehabilitation and community mobility;
 - (m) management of feeding, eating and swallowing;
 - (n) application of physical agent modalities and use of a range of specific therapeutic procedures such as wound care management; techniques to enhance sensory, perceptual and cognitive processing; and manual therapy techniques to enhance performance skills;
 - (o) facilitating the occupational performance of groups, populations or organizations; and
 - (p) management of a client's mental health, functioning and performance; and
- D. use of means to measure the outcomes and effects of interventions to reflect the attainment of treatment goals, including:
- (1) improved quality of life;
 - (2) the degree of participation;
 - (3) role competence;
 - (4) well-being;
 - (5) improved life function;
 - (6) enhanced performance; and
 - (7) prevention criteria.

61-12A-5. Supervision; required; defined. (Repealed effective July 1, 2022.)

Occupational therapy shall not be performed by an occupational therapy assistant or by any person practicing on a provisional permit unless the occupational therapy is supervised by an occupational therapist. The board shall adopt rules defining supervision.

61-12A-6. License required. (Repealed effective July 1, 2022.)

- A. Unless licensed to practice the level of occupational therapy provided in the Occupational Therapy Act, a person shall not practice as an occupational therapist or occupational therapy assistant.
- B. It is unlawful for a person not licensed pursuant to the Occupational Therapy Act or whose license has been denied, suspended or revoked in this or another state to hold himself out as an occupational therapist or occupational therapy assistant or to use words or titles containing "occupational therapist" or "occupational therapy assistant" that would indicate or imply that the person is licensed as an occupational therapist or occupational therapy assistant.
- C. A facility or employer shall not represent that it offers occupational therapy unless it uses the services of a licensee pursuant to the provisions of the Occupational Therapy Act.
- D. A person offering or assisting in the offering of occupational therapy shall be properly identified by a name badge or other identification indicating whether the person is an occupational therapist, an occupational therapy assistant, an occupational therapy aide or technician or a person practicing under a provisional permit.

61-12A-7. Exemptions. (Repealed effective July 1, 2022.)

Nothing in the Occupational Therapy Act shall be construed as preventing or restricting the practice, services or activities of:

- A. a person engaged in the profession or occupation for which he is licensed in New Mexico;
- B. a person lawfully engaged in a profession or occupation known by a name other than occupational therapy when engaged in that profession or occupation;
- C. a person pursuing a course of study leading to a degree or certificate in occupational therapy in an educational program accredited or seeking accreditation by the accreditation council of occupational therapy education if the activities and services constitute part of the supervised course of study and if that person is designated by a title that clearly indicates his status as a student or trainee;
- D. a person fulfilling the supervised student field work experience requirement pursuant to the Occupational Therapy Act if the activities and services constitute part of the experience necessary to meet that requirement; and
- E. an occupational therapist or occupational therapy assistant licensed in another state from conducting continuing education, workshops or seminars in New Mexico.

61-12A-8. Board created. (Repealed effective July 1, 2022.)

- A. The "board of examiners for occupational therapy" is created.
- B. The board shall be administratively attached to the regulation and licensing department.
- C. The board shall consist of five members appointed by the governor who have been residents of the state for at least two years preceding the appointment.
- D. Three members shall be licensed under the provisions of the Occupational Therapy Act; have a minimum of five years' professional experience, with two years' experience in New Mexico; and have not had their licenses

suspended or revoked by this or any other state. One of the professional members may be an occupational therapy assistant and one of the professional members may be a retired occupational therapist or occupational therapy assistant, who has been retired for no more than five years at the time of appointment.

E. Two members shall represent the public. The two public members shall have no direct interest in the profession of occupational therapy. The public members shall not:

- (1) have been convicted of a felony;
- (2) be habitually intemperate or be addicted to the use of habit-forming drugs or be addicted to any other vice to such a degree as to render the member unfit to fulfill his board duties and responsibilities; or
- (3) be guilty of a violation of the Controlled Substances Act [Chapter 30, Article 31 NMSA 1978].

F. Appointments shall be made for staggered terms of three years with no more than two terms ending at any one time. A board member shall not serve more than two consecutive terms. Vacancies shall be filled for the unexpired term by appointment by the governor prior to the next scheduled board meeting.

G. An individual member of the board shall not be liable in a civil or criminal action for an act performed in good faith in the execution of his duties as a member of the board.

H. Members of the board shall be reimbursed for per diem and travel expenses as provided in the Per Diem and Mileage Act [10-8-1 through 10-8-8 NMSA 1978] and shall receive no other compensation, perquisite or allowance.

I. A simple majority of the board members currently serving shall constitute a quorum of the board for the conduct of business.

J. The board shall meet at least four times a year and at other times as it deems necessary. Additional meetings may be convened at the call of the president of the board or on the written request of any two board members to the president. Meetings of the board shall be conducted in accordance with the provisions of the Open Meetings Act [Chapter 10, Article 15 NMSA 1978].

K. A member failing to attend three consecutive meetings, unless excused as provided by board policy, shall automatically be recommended for removal as a member of the board.

L. At the beginning of each fiscal year, the board shall elect a president, vice president and secretary-treasurer.

61-12A-9. Board; powers and duties. (Repealed effective July 1, 2022.)

A. The board shall:

- (1) adopt, file, amend or repeal rules and regulations in accordance with the Uniform Licensing Act [61-1-1 through 61-1-31 NMSA 1978] to carry out the provisions of the Occupational Therapy Act;
- (2) use funds for the purpose of meeting the necessary expenses incurred in carrying out the provisions of the Occupational Therapy Act;
- (3) adopt a code of ethics;
- (4) enforce the provisions of the Occupational Therapy Act to protect the public by conducting hearings on charges relating to the discipline of licensees, including the denial, suspension or revocation of a license;
- (5) establish and collect fees;

- (6) provide for examination for and issuance, renewal and reinstatement of licenses;
- (7) establish, impose and collect fines for violations of the Occupational Therapy Act;
- (8) appoint a registrar to keep records and minutes necessary to carry out the functions of the board; and
- (9) obtain the legal assistance of the attorney general.

B. The board may:

- (1) issue investigative subpoenas for the purpose of investigating complaints against licensees prior to the issuance of a notice of contemplated action;
- (2) hire or contract with an investigator to investigate complaints that have been filed with the board. The board shall set the compensation of the investigator to be paid from the funds of the board;
- (3) inspect establishments; and
- (4) designate hearing officers.

61-12A-10. Board; administrative procedures. (Repealed effective July 1, 2022.)

The board shall appoint a registrar who is either the board member elected as the secretary- treasurer or such other person as the board may designate who is an employee of the state. The registrar of the board may receive reimbursement for necessary expenses incurred in carrying out his duties. The registrar shall keep a written record in which shall be registered the name, license number, date of license issuance, current address, record of annual license fee payments, minutes and any other data as the board deems necessary regarding licensees.

61-12A-11. Requirements for licensure. (Repealed effective July 1, 2022.)

A. An applicant applying for a license as an occupational therapist or occupational therapy assistant shall file a written application provided by the board, accompanied by the required fees and documentation, and demonstrating to the satisfaction of the board that the applicant has:

- (1) successfully completed the academic requirements of an educational program in occupational therapy that is either:
 - (a) accredited by the American occupational therapy association's accreditation council for occupational therapy education; or
 - (b) in the case of a foreign educational program, accepted by the national board for certification in occupational therapy when the therapist applies to take that board's examination;
- (2) successfully completed a period of supervised field work experience at a recognized educational institution or a training program approved by the educational institution where the occupational therapist or the occupational therapy assistant has met the academic requirements of Paragraph (1) of this subsection; provided that:
 - (a) an occupational therapist shall complete a minimum of twenty-four weeks of supervised fieldwork experience or satisfy any generally recognized past standards that identified minimum fieldwork requirements at the time of graduation; and
 - (b) an occupational therapy assistant shall complete a minimum of sixteen weeks of supervised fieldwork experience or satisfy any generally recognized past standards that identified minimum fieldwork requirements at the time of graduation;

(3) has passed an examination prescribed by the national board for certification in occupational therapy or the board; and

(4) has no record of unprofessional conduct or incompetence.

B. In the case of an occupational therapy assistant or a person practicing on a provisional permit, the applicant shall file with the board a signed, current statement of supervision by the occupational therapist who will be the responsible supervisor.

C. The board shall verify, as necessary, information contained on the completed application and any supporting documentation required to obtain a license.

61-12A-12. Examinations. (Repealed effective July 1, 2022.)

The board shall require proof of passage of the national board for certification in occupational therapy examination. The board may require each applicant to pass an examination on the state laws and rules that pertain to the practice of occupational therapy.

61-12A-13. Provisional permits. (Repealed effective July 1, 2022.)

A provisional permit may be granted to a person who has completed the education and experience requirements of the Occupational Therapy Act. The permit shall allow the person to practice occupational therapy under the supervision of an occupational therapist. The provisional permit shall be valid until the date on which the results of the next qualifying examination have been made public.

The provisional permit shall not be renewed if the applicant has failed the examination. The board shall verify, as necessary, information contained on the completed application and any supporting documentation required to obtain a license.

61-12A-14. Licensure by endorsement. (Repealed effective July 1, 2022.)

Upon verification, the board may grant a license to an applicant who presents a current license in good standing as an occupational therapist or an occupational therapy assistant in another state, the District of Columbia or a territory of the United States that meets the requirements of Section 61-12A- 11 NMSA 1978.

61-12A-15. License renewal. (Repealed effective July 1, 2022.)

A. Each renewal request shall contain the person's name, address and license number. After receipt of information and fees as prescribed by this section, the board shall issue a license certificate.

B. Licenses issued pursuant to the Occupational Therapy Act are subject to annual renewal upon submission of a renewal form provided by the board, payment of the annual renewal fee and the required proof of continuing education units or proof of competency as prescribed by the board. A license not renewed on the annual renewal date is expired.

C. If a person's license has been expired for five years or less, the person may renew the license upon submission of a renewal form provided by the board, the payment of the annual renewal fee, a late fee and the required proof of continuing education units for the period the license has been expired or proof of competency as prescribed by the board. If a person's license has been expired for more than five years, the person may not renew the license. The person may obtain a new license by compliance with the requirements and procedures for obtaining an original license and any additional proof of competency requested by the board.

D. If a person's license has been suspended, it shall not be renewed until it has been reinstated by the board. If a person's license has been suspended it is still subject to annual renewal. The person may renew the license as provided in this section, but renewal does not entitle the licensee, while the license is suspended, to engage in the licensed activity or in any other conduct or activity in violation of the order or judgment by which the license was suspended.

E. If a person's license has been revoked on disciplinary grounds, and has been reinstated by the board, the licensee shall pay the annual renewal fee and any applicable late fee as a condition of reinstatement.

61-12A-16. Display of license. (Repealed effective July 1, 2022.)

A. Each licensee shall display his current license certificate in a conspicuous place in the principal office where he practices occupational therapy. At secondary places of employment, documentation of license shall be verified by photocopy with a note attached indicating where the current license certificate is posted.

B. A consumer information sign shall be displayed in the principal place of practice. The consumer information sign shall read:

"Complaints regarding noncompliance with the Occupational Therapy Act can be directed to the board of examiners for occupational therapy."

61-12A-17. Inactive licenses. (Repealed effective July 1, 2022.)

A license in good standing may be transferred to inactive status upon written request to the board and payment of an annual inactive status fee as set by the board. Such request shall be made prior to the expiration of the license. The licensee shall not practice in New Mexico during the time the license is inactive. A licensee may reactivate his license upon submission of a renewal form provided by the board, the payment of the annual renewal fee for the current year, proof of continuing education units for the period of inactive status and any additional proof of competency requested and prescribed by the board.

61-12A-18. Fees. (Repealed effective July 1, 2022.)

The board shall establish a schedule of reasonable fees, including an initial licensure fee, an annual renewal fee, an examination fee, a late renewal fee and an inactive status fee. The initial licensure fee is not refundable and shall cover the cost of processing the application and shall include, for successful applicants, the initial annual renewal fee. The board may impose reasonable administration and duplicating fees or any penalties deemed appropriate.

61-12A-19. Uniform Licensing Act. (Repealed effective July 1, 2022.)

The Occupational Therapy Act is enforceable according to the procedures set forth in the Uniform Licensing Act [61-1-1 through 61-1-31 NMSA 1978].

61-12A-20. Fund created. (Repealed effective July 1, 2022.)

A. The "board of examiners for occupational therapy fund" is created in the state treasury.

B. Money received by the board pursuant to the Occupational Therapy Act shall be deposited in the fund. Money in the fund shall not revert to the general fund at the end of any fiscal year.

C. Money in the fund is appropriated solely to the board for the purpose of meeting the necessary expenses incurred in carrying out the provisions of the Occupational Therapy Act.

61-12A-21. Penalties. (Repealed effective July 1, 2022.)

A. An unlicensed person, other than an occupational therapy aide or technician, occupational therapy student or occupational therapy assistant student or person practicing under a provisional permit, who practices occupational therapy is guilty of a misdemeanor and upon conviction shall be sentenced pursuant to Section 31-19-1 NMSA 1978.

B. A person who represents that he offers occupational therapy services without utilizing a licensee is in violation of the Occupational Therapy Act and shall be subject to a fine equal to ten percent of billed charges for those services. In addition, the violator shall be required to utilize the services of a licensee in order to provide occupational therapy services.

C. The board shall deny an application for licensure if it finds that the applicant made false statements or provided false information in connection with an application for licensure.

61-12A-22. Disciplinary action; denial, suspension or revocation. (Repealed effective July 1, 2022.)

In accordance with procedures established by the Uniform Licensing Act [61-1-1 through 61-1-31 NMSA 1978], the board may deny, suspend or revoke any license or permit held or applied for under the Occupational Therapy Act upon the grounds that the licensee or applicant is incompetent, impaired or has engaged in unethical behavior. The board shall define such grounds by regulation.

Disciplinary sanctions may also include probation, censure or reprimand, according to board regulations.

61-12A-23. Criminal Offender Employment Act. (Repealed effective July 1, 2022.)

The provisions of the Criminal Offender Employment Act [28-2-1 to 28-2-6 NMSA 1978] shall govern any consideration of criminal records required or permitted by the Occupational Therapy Act.

61-12A-24. Termination of agency life; delayed repeal. (Repealed effective July 1, 2022.)

The board of examiners for occupational therapy is terminated on July 1, 2021 pursuant to the provisions of the Sunset Act [12-9-11 through 12-9-21 NMSA 1978]. The board shall continue to operate according to the provisions of the Occupational Therapy Act until July 1, 2022. Effective July 1, 2022, the Occupational Therapy Act is repealed.

61-12A-25. Applicability to other health professions. (Repealed effective July 1, 2022.)

Nothing in the Occupational Therapy Act shall be construed as limiting the practice of other licensed and qualified health professionals in their specific disciplines.