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]

[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.
   [RESERVED]
[06-14-97; 16.15.1.7 NMAC - Rn, 16 NMAC 15.1.7, 06-29-00]

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 (3) 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, NMSA 1978 Sections 14-2-1 through 14-2-16. 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.
“Supervision” means the typical oversight required for individuals at the various levels of role performance. Supervision is a shared responsibility. The supervising occupational therapist (OT) has a responsibility to provide supervision to occupational therapy assistants (OTAs), persons practicing on a provisional permit, and occupational therapy aides/technicians. The supervisee has a responsibility to obtain supervision.

The occupational therapist (OT) has ultimate overall responsibility for service performance by the occupational therapy assistant (OTA), and for the health and safety of each client in the provision of occupational therapy services.

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]
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 ten (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 ten (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.

16.15.2.10 PROVISIONAL PERMITS:

A. Any persons who have completed the education and experience requirements of the occupational therapy act and who have applied for the National Board for Certification in Occupational Therapy (NBCOT) examination may apply for a provisional permit.
B. The provisional permit allows the applicant to practice occupational therapy under the supervision of a licensed occupational therapist as defined in 16.15.3 NMAC.
C. The provisional permit is in effect for a maximum of six (6) months after issuance. Failure to sit for the NBCOT examination within six (6) months automatically voids the provisional permit. A license may be issued when results of the examination have been made public.
D. The provisional permit will automatically be invalidated upon notice to the board that the applicant has failed the examination.
E. Any previous failures of the NBCOT certification exam will prevent a person from obtaining a provisional permit.
F. Persons practicing on a provisional permit shall file with the board a signed current statement of supervision by the occupational therapist or occupational therapists (OT or OTs) who will be responsible for the supervision of the person practicing on a provisional permit. Both the supervisor and supervisee carry responsibility for notifying the board within ten (10) work days when there is a change of supervisor.
G. Persons practicing on a provisional permit pending certification as an occupational therapy assistant (OTA) or an occupational therapist (OT) are not eligible to supervise. (Refer 16.15.3 NMAC)
H. All provisional permits are the property of the board and shall forthwith be returned to the board, if requested.

16.15.2.11 EDUCATIONAL PROGRAMS: [06-14-97; 16.15.2.10 NMAC - Rn, 16 NMAC 15.2.10, 06-29-00; A, 04-03-03]
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.

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.

16.15.2.14  EXPIRED LICENSE OR NON-PRACTICE:  
A.  A license not renewed on the annual renewal date is expired.
B.  Validation of competency for applicants who have not practiced since his or her graduation from an occupational therapy program, or who have not practiced as an occupational therapist or occupational therapy assistant for a period of more than three (3) years, full licensure requires the following:
   (1)  a completed application form as required under 16.15.2.9 NMAC;
   (2)  passage of the jurisprudence exam;
   (3)  twenty (20) continuing education contact hours for each year the applicant was not practicing as an occupational therapist or occupational therapy assistant, not to exceed one hundred (100) hours (course work to be pre-approved by the board); and
   (4)  supervised service delivery; and
      (53)  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).

16.15.2.15  INACTIVE LICENSE:
A.  A license in good standing may be transferred to inactive status upon written request to the board.

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 (5) years of an inactive license.
   (5)  Passage of the jurisprudence exam.
   (6)  Completion of a verification of employment form for licensees that have practiced outside New Mexico while on inactive status.

16.15.2.16  REINSTATEMENT OF LICENSURE:

A.  The occupational therapy educational program completed by the occupational therapist or occupational therapy assistant must have been accredited by the Council for Occupational Therapy Education (“ACOTE”) or 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]
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) payment of the renewal fee;
   (4) proof of the required continuing education contact hours; and
   (5) passage of the jurisprudence examination.

B. Reinstatement of an occupational therapist or occupational therapy assistant license that has lapsed in New Mexico for more than one (1) year, where there is evidence of continued practice with an unrestricted license/registration/certification in another state requires the following:
   (1) completion of the reinstatement-initial application;
   (2) payment of the reinstatement application;
   (3) payment of the current year renewal fee;
   (4) proof of twenty (20) continuing education hours for each year of the lapsed New Mexico license;
   (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) current of the license;
      (d) expiration date of the license/registration/certification;
      (e) a statement of whether the applicant was denied a license/registration/certification by the agency;
      (f) a statement of whether any disciplinary action is pending or has been taken against the applicant; and
      (g) receipt of verification of employment for states not requiring licensure, registration, or certification.

[16.15.2.16 NMAC - N, 08-29-05]

16.15.2.17 PROVISIONS FOR EMERGENCY LICENSURE:

A. Occupational therapists and occupational therapists 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.

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 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.
16.15.2.18 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.

16.15.2.19 EXPEDITED LICENSURE FOR MILITARY SERVICE MEMBERS, SPOUSES, AND
VETERANS

A. Definitions
   (1) 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.
   (2) 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.
   (3) Spouse: means a person married to the military service member or recent veteran, in a
   marriage recognized by the State of New Mexico.

B. Application Requirements
   (1) Applications for registration shall be completed on a form (electronic or hard copy) provided
   by the department.
   (2) The information shall include:
      (a) completed application and fee;
      (b) 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.
      (c) proof of honorable discharge (DD214) or military identification card or proof of
      marriage for spousal status.
   (3) Electronic signatures will be acceptable for applications submitted pursuant to section 14-16-1
   through 14-16-21 NMSA 1978.

C. Fees
   (1) The fee for applications falling under this part are governed by Rule 16.15.6.8 NMAC.

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 04-14-95
Rule 95-1, Licensing Regulations, filed 04-13-95.

History of the Repealed Material: [RESERVED]
PART 3 SUPERVISION

16.15.3.1 ISSUING AGENCY: Board of Examiners for Occupational Therapy
[06-14-97; 16.15.3.1 NMAC - Rn & A, 16 NMAC 15.3.1, 06-29-00]

16.15.3.2 SCOPE: All those individuals who wish to practice occupational therapy in the State of New Mexico.
[06-14-97; 16.15.3.2 NMAC - Rn, 16 NMAC 15.3.2, 06-29-00]

16.15.3.3 STATUTORY AUTHORITY: Section 61-12A-5.
[06-14-97; 16.15.3.3 NMAC - Rn, 16 NMAC 15.3.3, 06-29-00]

16.15.3.4 DURATION: Permanent.
[06-14-97; 16.15.3.4 NMAC - Rn, 16 NMAC 15.3.4, 06-29-00]

16.15.3.5 EFFECTIVE DATE: June 14, 1997, unless a later date is cited at the end of a section.
[06-14-97; 16.15.3.5 NMAC - Rn, 16 NMAC 15.3.5, 06-29-00]

16.15.3.6 OBJECTIVE: To outline minimum supervision definitions and requirements.
[06-14-97; 16.15.3.6 NMAC - Rn, 16 NMAC 15.3.6, 06-29-00]

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 State Board of Examiners for Occupational Therapy Practice.

C. "Competency" refers to an individual’s capacity to perform job responsibilities.

D. "Competency" means the 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 an occupational therapist who is licensed by the Board.

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/or 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.

16.15.3.8 SUBPART SUPERVISION

A. Supervision of 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.

The specific frequency, methods, and content of supervision may vary by practice setting and area, dependent upon the...
complex and
number of
clients with diverse needs, or
(2) the practice setting provides occupational therapy services to a large
client population.
(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 teleconferencing. 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:
(i) frequency of supervisory contact,
(ii) method(s) or type(s) of supervision,
(iii) content areas addressed,
(iv) names and credentials of the persons participating in the supervisory process.

B. Occupational Therapy Aides

(1) An aide, as used in occupational therapy practice, is an individual who provides supportive services to the occupational therapist and the occupational therapy assistant. Therefore, aides do not provide skilled occupational therapy services.
(2) Aides are not primary service providers of occupational therapy in any practice setting.
(3) An aide is trained by an occupational therapist or an occupational therapy assistant to perform specifically delegated tasks. The occupational therapist is responsible for the overall use and actions of the aide. An aide first must demonstrate competency to be able to perform the assigned, delegated client and non-client-related tasks.
(4) The occupational therapist must oversee the development, documentation, and implementation of a plan to supervise and routinely assess the ability of the occupational therapy aide to carry out client and non-client-related tasks. The occupational therapy assistant may contribute to the development and documentation of this plan.
(5) The occupational therapy assistant may supervise the aide.
(6) Non-client-related tasks include clerical and maintenance activities and preparation of the work area or equipment.
(7) Client-related tasks are routine tasks during which the aide may interact with the client but does not act as a primary service provider of occupational therapy services. The following factors must be present when an occupational therapist or occupational therapy assistant delegates a selected client-related task to the aide:
(i) the outcome anticipated for the delegated task is predictable;
(ii) the situation of the client and the environment is stable and will not require that judgment, interpretations, or adaptations be made by the aide;
(iii) the need for the specific task is clearly indicated.

More frequent supervision may be necessary when:
(i) the needs of the client and the occupational therapy process are complex and changing,
(ii) the practice setting provides occupational therapy services to a large number of clients with diverse needs, or
(iii) the occupational therapist and occupational therapy assistant determine that additional supervision is necessary to ensure safe and effective delivery of occupational therapy services.

An aide is trained by an occupational therapist or an occupational therapy assistant to
perform specifically delegated tasks. The occupational therapist is responsible for the overall use and
actions of the aide. An aide first must demonstrate competency to be able to perform the
assigned, delegated client and non-client-related tasks.
(iii) the client has demonstrated some previous performance ability in executing the task; and
(iv) the task routine and process have been clearly established.

When performing delegated client-related tasks, the supervisor must ensure that the aide:

(i) is trained and able to demonstrate competency in carrying out the selected task and using equipment, if appropriate,
(ii) has been instructed on how to specifically carry out the delegated task with the specific client, and
(iii) knows the precautions, signs, and symptoms for the particular client that would indicate the need to seek assistance from the occupational therapist or occupational therapy assistant.

(9) The supervision of the aide shall be documented and include:

(i) information about frequency and methods of supervision used;
(ii) the content of supervision; and
(iii) the names and credentials of all persons participating in the supervisory process.

C. Supervision of a Limited Permit Holder

A limited permit holder or occupational therapy assistant limited permit holder who has not yet taken or received the results of the entry-level certification examination shall practice under the supervision of an occupational therapist. It is the responsibility of the supervising occupational therapist to provide and the limited permit holder to seek the appropriate quality and frequency of supervision to ensure safe and effective occupational therapy service delivery.

16.15.3.9 [RESERVED]

16.15.3.10 [RESERVED]

16.15.3.11 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, including:

(i) determining the need for service;
(ii) defining the problems within the domain of occupational therapy that need to be addressed;
(iv) determining the client’s goals and priorities;
(v) establishing intervention priorities;
(vi) determining specific further assessment needs, and
(vii) determining specific assessment tasks that can be delegated to the occupational therapy assistant.

2. The occupational therapist initiates and directs the evaluation, interprets the data, and develops the intervention plan.

3. 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.

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.
   - When delegating aspects of the occupational therapy intervention to the occupational therapy assistant, the occupational therapist is responsible for providing appropriate supervision.
2. The occupational therapy assistant is responsible for being knowledgeable about the client’s occupational therapy goals.
   - 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.
   - 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.
   - 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.
   - The occupational therapy assistant may implement outcome measurements and provide needed client discharge resources.

8. **Supervision of Aides in Occupational Therapy**

A. An aide, as used in occupational therapy practice, is an individual who provides supportive services to the occupational therapist and the occupational therapy assistant. Aides are not primary service providers of occupational therapy in any practice setting. Therefore, aides do not provide skilled occupational therapy services. An aide is trained by an occupational therapist or an occupational therapy assistant to perform specifically delegated tasks. The occupational therapist is responsible for the overall use and actions of the aide. An aide first must demonstrate competency to be able to perform the assigned, delegated client and non-client-related tasks.
   - The occupational therapist must oversee the development, documentation, and implementation of a plan to supervise and routinely assess the ability of the occupational therapy aide to carry out client and non-client-related tasks. The occupational therapy assistant may contribute to the development and documentation of this plan.
   - The occupational therapy assistant may supervise the aide.
   - Non-client-related tasks include clerical and maintenance activities and preparation of the work area or equipment.
   - Client-related tasks are routine tasks during which the aide may interact with the client but does not act as a primary service provider of occupational therapy services. The following factors must be present when an occupational therapist or occupational therapy assistant delegates a selected client-related task to the aide:
     - The outcome anticipated for the delegated task is predictable.
     - The situation of the client and the environment is stable and will not require that judgment, interpretations, or adaptations be made by the aide.
     - The client has demonstrated some previous performance ability in executing the task.
     - The task routine and process have been clearly established.
   - When performing delegated client-related tasks, the supervisor must ensure that the aide is trained and able to demonstrate competency in carrying out the selected task.
and using equipment, if appropriate,

--- has been instructed on how to specifically carry out the delegated task with the specific client, and
--- knows the precautions, signs, and symptoms for the particular client that would indicate the need to seek assistance from the occupational therapist or occupational therapy assistant.

6.15.3.13  **Scope of Occupational Therapy Assistant’s License**

<table>
<thead>
<tr>
<th>A. <strong>General.</strong> An occupational therapy assistant’s license authorizes the licensee to provide occupational therapy services under the supervision of and in partnership with a licensed occupational therapist.</th>
</tr>
</thead>
<tbody>
<tr>
<td>B. <strong>Supervision required.</strong> A licensed occupational therapy assistant may practice only under the supervision of an occupational therapist who is authorized to practice occupational therapy in this state.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>6.16.15.3.13  <strong>General Roles and Responsibilities of the Occupational Therapist and the Occupational Therapy Assistant.</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>A. The occupational therapist is responsible for all aspects of occupational therapy service delivery and is accountable for the safety and effectiveness of the occupational therapy service delivery process. The occupational therapy service delivery process involves evaluation, intervention planning, intervention implementation, intervention review, and outcome evaluation.</td>
</tr>
<tr>
<td>B. The occupational therapist must be directly involved in the delivery of services including during the initial evaluation and regularly throughout the course of intervention and outcome evaluation.</td>
</tr>
<tr>
<td>C. The occupational therapy assistant delivers occupational therapy services under the supervision of and in partnership with the occupational therapist.</td>
</tr>
<tr>
<td>D. It is the responsibility of the occupational therapist to determine when to delegate responsibilities to occupational therapy assistants. It is the responsibility of the occupational therapy assistant who performs the delegated responsibilities to demonstrate competency.</td>
</tr>
<tr>
<td>E. The occupational therapist and the occupational therapy assistant should be able to demonstrate and document competency for clinical reasoning and judgment during the service delivery process as well as for the performance of specific techniques, assessments, and intervention methods used.</td>
</tr>
<tr>
<td>F. When delegating aspects of occupational therapy services, the occupational therapist considers the following factors:</td>
</tr>
<tr>
<td>(1) The complexity of the client’s condition and needs;</td>
</tr>
<tr>
<td>(2) The knowledge, skill, and competence of the occupational therapy assistant;</td>
</tr>
<tr>
<td>(3) The nature and complexity of the intervention; and</td>
</tr>
<tr>
<td>(4) The needs and requirements of the practice setting;</td>
</tr>
</tbody>
</table>

“Intermediate level occupational therapy assistant (OTA)” means an occupational therapy assistant (OTA) that has advanced to this level with up to three (3) years of experience, or a more experienced occupational therapy assistant (OTA) who has recently passed the probationary period in a new area of practice. An intermediate level
occupational therapy assistant (OTA) must demonstrate competency by meeting work performance evaluation criteria in a satisfactory manner.

E. “Advanced-level occupational therapy assistant (OTA)” means an occupational therapy assistant (OTA) with a minimum of three years experience in a particular area of practice. An advanced-level occupational therapy assistant (OTA) must demonstrate competency by meeting work performance evaluation criteria in a satisfactory manner.

F. “Twenty percent (20%) face-to-face clinical observation” means a minimum of every fifth (5th) contact or 1 out of every 5 shall be direct observation of treatment.

G. “Supervision contact” means any form of supervision that is of sufficient length of time to ethically provide guidance.

[06-11-97; 16.15.3.7 NMAC – Rn & A. 16 NMAC 15.3.7. 06-29-00; A. 04-03-03; A. 08-29-05]

16.15.3.8 SUPERVISION:

A. Occupational therapy assistants (OTA) and 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 occupational therapy assistant or person practicing on a limited permit. The statement of supervision must be filed with the board within ten (10) work days of employment and a new statement of supervision must be filed with the board within ten (10) work days of any change in employment or supervisor.

B. Supervision of persons pending certification as an occupational therapy assistant (OTA) shall consist of specific documentation as detailed in the “supervision log”. The original of the “supervision log” should be kept by the supervisee with a copy kept by the employer and supervisor. A copy of the “supervision log” must be submitted to the board prior to issuance of full licensure.

C. Supervision is an interactive process, more than a paper review or a co-signature, and requires direct in-person contact.

D. Supervision by the occupational therapist (OT) is related to the ability of the occupational therapy assistant (OTA) to safely and effectively provide those interventions delegated by an occupational therapist (OT).

E. An intermediate-level or advanced-level occupational therapy assistant (OTA) may supervise an entry-level occupational therapy assistant (OTA) when his/her job competencies have been assured by the supervising occupational therapist (OT).

F. The occupational therapist (OT) has ultimate overall responsibility for service performance by the occupational therapy assistant (OTA), and for the health and safety of each client in the provision of occupational therapy services.

G. Supervision of the occupational therapy assistant (OTA) shall consist of specific documentation as detailed in the “supervision log”. Subsection D of 16.15.3.10 NMAC. The original of the “supervision log” should be kept by the supervisee with a copy kept by the employer and supervisor. A copy of the “supervision log” must be submitted to the board with each renewal application. For periods of unemployment, a written statement of the time period of unemployment should be attached to the “supervision log” and submitted with the renewal form.

H. The board or its designee has the authority to request a copy of the “supervision log” at any time, without prior notice to the supervising therapist or supervisor.

I. The occupational therapist (OT) and the occupational therapy assistant (OTA) shall provide direct supervision to all occupational therapy aides/technicians.

J. Persons practicing on a provisional permit pending certification as an occupational therapy assistant (OTA) or an occupational therapist (OT) are not eligible to supervise.

[06-11-97; 02-11-98; 16.15.3.8 NMAC – Rn & A. 16 NMAC 15.3.8. 06-29-00; A. 04-03-03]

16.15.3.9 FOUR LEVELS OF SUPERVISION FOR OTA’S ARE IDENTIFIED:

A. “Direct supervision” means a minimum of daily direct contact at the site of work with the licensed supervisor physically present within the facility when the supervisee renders care and requires the supervisor to co-sign all documentation that is completed by the supervisee. The occupational therapist (OT) or an intermediate-level or advanced-level occupational therapy assistant (OTA) shall provide direct supervision for persons practicing on a provisional permit pending certification as an occupational therapy assistant. The occupational therapist (OT) and the occupational therapy assistant (OTA) shall provide direct supervision to all occupational therapy aides/technicians.

B. “Close supervision” means a minimum of daily communication by means of direct contact, telephone, fax, or e-mail. In a single work setting or when involving multiple sites, supervision shall occur at one or
more of the sites or offices, but not necessarily at all sites or offices. At a minimum, twenty percent (20%) of close supervision contacts shall be face-to-face clinical observation. Required for entry-level occupational therapy assistants (OTA).

C. "Routine supervision" means a minimum of direct contact at least every two (2) weeks at the site of work, with interim supervision occurring by other methods such as telephone, fax or e-mail. At a minimum, twenty percent (20%) of routine contacts shall be face-to-face clinical observation. Required for intermediate-level occupational therapy assistants (OTA).

D. "General supervision" means a minimum of monthly direct contact, with supervision available as needed by other methods such as telephone, fax or e-mail. At a minimum, twenty percent (20%) of general contacts shall be face-to-face clinical observation. Required for advanced-level occupational therapy assistants (OTA).

16.15.3.9 SUPERVISION REQUIRED FOR PERSONS PRACTICING ON A PROVISIONAL PERMIT PENDING CERTIFICATION AS AN OCCUPATIONAL THERAPIST (OT):

A. Supervision for persons practicing on a provisional permit pending certification as an occupational therapist shall be provided by a licensed occupational therapist (OT).

B. Supervision of persons practicing on a provisional permit pending certification as an occupational therapist shall occur on site. In a work setting involving multiple sites of work and/or offices, supervision shall occur at one or more of the sites or offices, but not necessarily all sites or offices.

C. Supervision of persons practicing on a provisional permit pending certification as an occupational therapist shall occur a minimum of three (3) or more times per week for persons working five (5) days per week, a minimum of two (2) or more times per week for persons working four (4) days per week, and a minimum of one (1) or more times per week for persons working three (3) or less days per week.

D. Supervision of persons practicing on a provisional permit pending certification as an occupational therapist shall consist of specific documentation as detailed in the "supervision log". The original of the "supervision log" should be kept by the supervisee with a copy kept by the employer and supervisor. A copy of the "supervision log" must be submitted to the Board prior to issuance of full licensure. The "supervision log" should be submitted ten (10) work days prior to the expiration date of the provisional permit or upon receipt of confirmation of passing the certification exam.

E. The board or its designee has the authority to request a copy of the "supervision log" at any time, without prior notice to the supervising therapist or supervisee.

F. The supervising occupational therapist shall co-sign any and all patient treatment notes while the supervisee is practicing on a provisional permit.

16.15.3.10 TASK DELEGATION:

A. As pertains to the occupational therapy assistant (OTA), the occupational therapist (OT) shall evaluate each patient/client before direct care tasks are assigned to the occupational therapy assistant (OTA). The occupational therapist (OT) shall determine and assign only those tasks that can be safely and effectively done by an occupational therapy assistant (OTA). Direct care tasks may include, but are not limited to:

(1) completing data collection procedures such as record review, interviews, general observations, and behavioral checklists;

(2) administering standardized and criterion-referenced tests after service competency has been established;

(3) reporting changes in status that might warrant reassessment or referral;

(4) contributing to treatment plan as developed by the occupational therapist (OT);

(5) providing direct intervention by engaging patient/client in activities related to occupational performance areas;

(6) adjusting and modifying treatment plans subject to final approval by an occupational therapist (OT); and

(7) reporting the factors that should be considered when discontinuing and/or continuing warrant discontinuation of intervention orally and in writing.

B. The occupational therapist (OT) must sign the evaluation, the original treatment plan, any change of the treatment plan, and discharge of services.

C. Duties and functions which the occupational therapy assistant (OTA) shall not perform include, but are not limited to:
(1) interpreting referrals or prescriptions for occupational therapy services;
(2) interpreting and analyzing evaluation data;
(3) developing or planning treatment plans independently; and
(4) acting independently without supervision of an occupational therapist (OT).

D. In extenuating circumstances, when the occupational therapy assistant (OTA) is without supervision, the occupational therapy assistant (OTA) may continue carrying out established programs for no longer than thirty (30) calendar days under agency supervision while appropriate occupational therapy supervision is sought. It is the responsibility of the board to interpret what establishes “extenuating circumstances”.

(1) The agency and the supervisee must notify the board office, in writing, of the name of the agency supervisor within twenty-four (24) hours of approval for extenuating circumstances. This notification may be by means of fax or e-mail.

(2) The agency supervisor must sign the supervision log for each day of supervision.

E. As pertains to the occupational therapy aide/technician: the occupational therapist (OT) shall evaluate each patient/client before direct care tasks are assigned to the occupational therapy aide/technician. Only the occupational therapist (OT) shall determine, assign and modify those tasks that can be safely and effectively performed by the occupational therapy aide/technician.

(1) The occupational therapist (OT) or occupational therapy assistant (OTA) shall not document services rendered by an aide or technician as occupational therapy services provided by a licensed practitioner.

(2) The occupational therapist (OT) or occupational therapy assistant (OTA) shall supervise those delegated, established routine activities which are performed by the occupational therapy aide/technician.

(3) The occupational therapist (OT) and the occupational therapy assistant (OTA) shall not assign or permit occupational therapy aides/technicians to:

(a) interpret referrals or prescriptions for occupational therapy services;
(b) interpret or analyze evaluation data;
(c) develop, plan, adjust, or modify treatment plans;
(d) act on behalf of the occupational therapist (OT) or the occupational therapy assistant (OTA) in any matter related to direct patient/client care which requires judgment or decision making;
(e) act independently without the supervision of an occupational therapist (OT) or an occupational therapy assistant (OTA);

(f) document services provided by an aide or technician as occupational therapy provided by a licensed practitioner; and
(g) represent themselves as an occupational therapist (OT) or occupational therapy assistant (OTA).[06-14-97; 16.15.3.11 NMAC - Rn & A, 16 NMAC 15.3.11, 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 84-1, 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]
16.15.4.3  **STATUTORY AUTHORITY:** Section 61-12A-15, NMSA 1978.  [06-14-97; 16.15.4.3 NMAC - Rn, 16 NMAC 15.4.3, 06-29-00]

16.15.4.4  **DURATION:** Permanent.  [06-14-97; 16.15.4.4 NMAC - Rn, 16 NMAC 15.4.4, 06-29-00]

16.15.4.5  **EFFECTIVE DATE:** June 14, 1997, unless a later date is cited at the end of a section.  [06-14-97; 16.15.4.5 NMAC - Rn & A, 16 NMAC 15.4.5, 06-29-00]

16.15.4.6  **OBJECTIVE:** To inform licensees of continuing education requirements for license renewal.  [06-14-97; 16.15.4.6 NMAC - Rn, 16 NMAC 15.4.6, 06-29-00]

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 sixty (60) minutes. **One continuing education contact hour is the equivalent to one continuing education unit.**  [06-14-97; 16.15.4.7 NMAC - Rn & A, 16 NMAC 15.4.7, 06-29-00; A, 04-03-03]

16.15.4.8  **ANNUAL CONTINUING EDUCATION REQUIREMENTS:**

A. Every licensed occupational therapist and occupational therapy assistant must earn a minimum of twenty (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 twenty (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 twenty (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 thirty (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 date. Whether or not a renewal application is received by the licensee.

E. Each licensee is responsible for filing address changes and maintaining a current address with the board office.  [06-14-97; 16.15.4.8 NMAC - Rn & A, 16 NMAC 15.4.8, 06-29-00; A, 04-03-03; A, 08-29-05]

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/or 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/or 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/or presentation. Proof of preparation may be an outline, copy of handouts, copy of overheads or transparencies, presentation slides, and a copy of the agenda showing name of licensee as presenter. Contact hours for the presenter will be calculated at three (3) times the number of hours of audience participation (e.g. a two hour workshop equals 6 hours for the presenter). A maximum of twelve (12) contact hours per renewal year is allowed in this area.

(3) Completion of accredited university, college, or community college 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-accredited community college courses may be accepted at the board's discretion. A maximum of twenty (20) contact hours is allowed for a three (3) credit course; a maximum of fifteen (15) contact hours is allowed for a two (2) credit course; and a maximum of ten (10) contact hours is allowed for a one (1) credit course.

(4) Attendance at physician workplace in-service programs or regular occupational therapy staff 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, licensee's present or future position in the field of occupational therapy. A maximum of ten (10) contact hours will be allowed in this area.

(5) Completion of an American occupational therapy association (AOTA) or other self-study course. The applicant must provide:
   (a) a copy of the certificate of completion received from the program provider; and
   (b) a brief statement indicating the course's relationship to the licensee's present or future position in the field of occupational therapy.

(6) Reading a book. The applicant must provide the name of the book; number of pages; name of the author; and a typed written summary explaining how the information obtained from the book applies to the philosophical tenets of occupational therapy, licensee’s present or future position in the field of occupational therapy. The board may approve, on an individual basis, up to two (2) contact hours for each book read. A maximum of four (4) contact hours will be allowed in this area.

(7) 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 forty (40) contact hours may be awarded at the board's discretion.

(8) Viewing video tapes/films/prerecorded materials Audio and/or Visual Media. An applicant must provide the title of the audio and/or visual medium; name of the film, tape, or audio cassette; the length of the presented material(s); name of the presenter; and a typed written summary explaining how the presentation and how it pertains to the philosophical tenets of occupational therapy or the information obtained applies to the licensee's present or future position in the field of occupational therapy. A maximum of ten (10) contact hours per year is allowed in this area.

(9) 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.

(10) Publication of a paper or article. The applicant must provide a copy of the published paper/article, 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.

(11) Conducting occupational therapy 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 the philosophical tenets of occupational therapy how participation in the project is related to the licensee’s present or future position in the field of occupational therapy;
   (d) a brief statement indicating how participation in the project is benefiting the applicant’s therapy skills or research skills; and
(e) provide a copy of the research report (if project has been completed). If report is incomplete, credit will be allowed by providing the listed information or by receipt of the college transcript.

(12) Specialty/certification programs. Applicants-Licenses or applicants 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.

(13) 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 twelve (12) weeks. A maximum of eight (8) contact hours will be approved for each OTA fieldwork II rotation of eight (8) weeks. A maximum of twelve (12) contact hours per renewal year is allowed in this area.

(14) 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 (1) 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 (5) contact hours per year.

(15) Alternative medicine seminars. Applicants should include a statement indicating how the course relates to the licensee’s present or future position in the field of occupational therapy with their request. The board will approve contact hours for these courses on a case-by-case basis.

(16) Internet courses. Applicants should include a copy of the certificate of completion received from the program provider. A maximum of ten (10) contact hours per renewal is allowed in this area.

D. Ineligible activities include, but are not limited to:

- (1) orientation and in-service programs dealing with organizational structures, processes, or procedures;
- (2) meetings for purposes of policy making that do not include a continuing education component related to protection of the public; for continuing education component approval, contact hours are to be determined by the board; a maximum of ten (10) contact hours per renewal year is allowed in this area;
- (3) association, chapter or district business meetings;
- (4) entertainment or recreational meetings or activities;
- (5) committee meetings, holding of offices, serving as an organizational delegate;
- (6) visiting exhibits;
- (7) any self-directed studies not approved by the board; and
- (8) CPR education.

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 thirty (30) calendar days of receipt of the request; and
- (3) the licensee whose request has been denied may appeal to the board within thirty (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 (3) 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.

For 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 twenty (20) continuing education contact hours to be carried over into the next licensing year.
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: [RESERVED]

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 thirty (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 twenty (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
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 recommendation(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 reviewed 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 thirty (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 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 (1) 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.

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]
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 31st.:
   (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: $8570.00
   (2) occupational therapy assistant: $6050.00
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 1st 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

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.