

This is an amendment to Section 9 of 16.14.3 NMAC, Effective 10/22/2024.

**16.14.3.9 REQUIREMENTS FOR NUTRITIONIST LICENSE:**

**A.** Education requirements: Each applicant for a license as a nutritionist must have [~~one of the following:~~

~~(1) ] a master's degree or doctorate in human nutrition, nutrition education, foods and nutrition, or public health nutrition from a college or university accredited by a member of the council on post-secondary accreditation [~~or~~~~

~~(2) valid current evidence of membership in one of the following organizations: American clinical board of nutrition or American society for nutrition].~~

**B.** Additional requirements:

(1) pass an examination related to entry level nutrition practice and nutrition care services which has been approved by the board; or

(2) be licensed in another state which has standards for licensure not less stringent than those in New Mexico.

**C.** Documentation: Each applicant for license to practice as a nutritionist must submit the required fees and following documentation:

(1) completed and signed application;

(2) official transcript verifying degree required in Paragraph (1) of Subsection A of 16.14.3.9 NMAC, mailed directly from the college or university; or

(3) proof of membership in the organizations specified in Paragraph (2) of Subsection A of 16.14.3.9 NMAC;

(4) applicants who are currently, or have previously been, licensed in another state(s) must provide a copy of each license and a verification of license status directly to the board from the state(s) where licensed;

(5) a background check shall be conducted within past 90 days for initial licenses only

**D.** Disqualifying convictions: Conviction by a court of competent jurisdiction of any of the following potentially disqualifying felony criminal convictions:

(1) homicide, involuntary or voluntary manslaughter;

(2) manufacturing of controlled substances, trafficking in controlled substances or distribution of controlled substances, driving while under the influence of drugs or intoxicating liquor;

(3) kidnapping, false imprisonment, simple assault, simple battery, aggravated assault or aggravated battery or domestic violence offenses;

(4) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, or other related felony sexual offenses;

(5) crimes involving adult/elder abuse, neglect, endangerment or financial exploitation;

(6) crimes involving child abuse or neglect, child endangerment;

(7) crimes involving robbery, larceny, extortion, burglary, tampering with evidence or receiving stolen property;

(8) crimes involving fraud (including but not limited to insurance, medicare, medicaid and prescription), forgery, embezzlement, credit card fraud or misappropriation of funds.

**E.** Other convictions: This includes a conviction of an offense which, if committed in this state, would be deemed a felony under either state or federal law, without regard to its designation elsewhere. The term "conviction" shall include a finding or verdict of guilt, a plea of guilty, or a plea of nolo contendere in a criminal proceeding, regardless of whether the adjudication of guilt or sentence is withheld or not entered thereon or an appeal of the conviction has been sought.

**F.** Mental competency: Having been declared mentally incompetent by a regularly constituted authority within or outside this state.

(1) Any such adjudication shall be grounds for suspension of the license of any such person and shall prevent the reissuance or renewal of any license so suspended for as long as the adjudication of incompetence is in effect unless the board, upon a finding that the licensee is mentally competent, orders otherwise.

(2) Any applicant who has been so adjudged to be mentally incompetent shall not receive a license unless the board, upon a finding that the applicant is mentally competent, orders otherwise

**G.** Scope of conduct: Nothing in this rule prevents the board from denying an application or disciplining a licensee on the basis of an individual's conduct to the extent that such conduct violated the Nutrition and Dietetics Act, regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the potentially disqualifying felony criminal convictions listed in Subsection A of this rule.

**H.** Prohibited disclosure: In connection with an application for licensure or licensure renewal, the board shall not use, distribute, disseminate or admit into evidence at an adjudicatory proceeding any criminal records of any of the following:

- (1) an arrest not followed by a valid conviction;
- (2) a conviction that has been sealed, dismissed, expunged or sealed;
- (3) a juvenile adjudication; or
- (4) a conviction for any crime other than the potentially disqualifying felony criminal

convictions listed in Subsection A of this rule.

**I.** Notice and hearing: If the board reserves approval of an applicant or licensee due to a potentially disqualifying felony criminal conviction, the applicant/licensee will receive notice and opportunity for a hearing. [3/30/1990...8/31/1996; 16.14.3.9 NMAC - Rn, 16 NMAC 14.3.9, 11/22/2005; A, 8/1/2011; A, 2/9/2022; A, 10/22/2024]