



New Mexico Board of Nursing

Written Public Comments Received for the 27 September 2021
Public Hearing of Proposed Rulemaking

Date Received	Submitted by	Comment
09/20/21 at 01:09 p.m.	William J. Duran, MPA	Emailed letter

be heightened when the provider works in an autonomous setting where other healthcare providers are not present to provide interventions for the patient. As such, the Agency considers crimes related to the use or possession of drugs or alcohol to be highly relevant to a nurse's fitness to practice.

(6) Crimes involving violence or threatening behavior. Providers care for the most vulnerable of populations, including individuals who often have no voice of their own and cannot advocate for themselves. Further, patients are dependent on the provider-patient relationship for their daily care. When a provider has engaged in violent or threatening criminal behavior in the past, the Agency is mindful that patients may be at risk for similar behavior in a healthcare setting. As such, the Agency considers crimes involving violence and threatening behavior to be highly relevant to a provider's fitness to practice.

Each of the crimes listed in 16.12.12.10 NMAC potentially poses a risk to the public if committed by a provider. The reasonableness of this list is shown by the nature and seriousness of each of these crimes, the relationship of the crime to the purposes for requiring a license or certificate to engage in any profession governed by the Acts, that a license to practice in any profession governed by the Acts might offer an opportunity to engage in further criminal activity, and the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities associated with each provider's practice. Each crime listed in this section raises concerns about the propensity of the individual to repeat similar misconduct in the workplace, if provided the opportunity. Similar misconduct in the workplace would place vulnerable individuals at risk of exploitation or victimization.

As a result, if an individual has been convicted of a crime listed in 16.12.12.10 NMAC of the proposed rules, the Agency will evaluate the criminal history to determine if a criminal conviction is to be presented to the Board, in accordance with the Acts, the proposed rules, and the New Mexico Criminal Offender Employment Act. The Board may then consider the information to determine what, if any, action should be taken against the provider's application, license, or certificate.

Lastly, I want to remind the Board that the disqualifying criminal convictions listed in 16.12.12.10 NMAC of the proposed rules *may* disqualify a provider and are not an automatic disqualification. It is up to the Board to determine if information presented to them by the Agency should be used to take appropriate action.

Sincerely,



William J. Duran, MPA
Director of Operations
New Mexico Board of Nursing