

## 16.39.7.9 VIOLATIONS:

[...]

### F. Criminal Convictions:

(1) Felony convictions for any of the following offenses, or their equivalents in any other jurisdiction, that may disqualify an applicant from receiving licensure, or disciplinary action including but not limited to suspension or revocation:

- (a) crimes involving homicide, murder, manslaughter, or resulting in death;
- (b) crimes involving human trafficking, or trafficking in controlled substances;
- (c) kidnapping, false imprisonment, assault, aggravated assault, battery, aggravated battery;
- (d) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, prostitution, or other sexual crimes;
- (e) crimes involving great bodily harm, adult abuse, child abuse, neglect, abandonment, stalking, aggravated stalking, injury to pregnant woman, custodial interference, property damage, or financial exploitation;
- (f) crimes involving ransom, robbery, larceny, extortion, burglary, sabotage, fraud, forgery, embezzlement, identity theft, credit card fraud, unauthorized use of a credit card; receiving stolen property, money laundering, burglary tools, or stolen vehicles;
- (g) crimes involving arson, explosives, incendiary devices, facsimile bombs, hoax explosives, deadly weapons, or firearms;
- (h) crimes involving seizing or exercising control of a bus by force or violence or by threat of force or violence;
- (i) violation of Partial-Birth Abortion Ban Act;
- (j) crimes involving bribery, intimidating witnesses, tampering with evidence, tampering with public records, performing an official act for personal gain, demanding or receiving a bonus, gratuity or bribe, unlawful interest in a contract involving an irrigation district, or receiving profits derived from an unlawful interest in a contract involving an irrigation district, or unlawful interest in a public contract;
- (k) crimes involving jury tampering;
- (l) crimes involving escape from custody, jail or penitentiary;
- (m) crimes involving harboring or aiding a felon;
- (n) crimes involving tax evasion or tax fraud;
- (o) crimes involving violations of the Mortgage Foreclosure Consultant Fraud Prevention Act, or the Savings and Loan Act;
- (p) crimes involving the Credit Union Act;
- (q) crimes involving perjury, public assistance, false swearing of oath or affidavit, false voting, falsely obtaining services or accommodations, falsifying documents, filing false documents, making false statements, making an unauthorized withdrawals, issuing a worthless check, obtaining information under false pretenses, or providing the credit bureau information of a consumer to an entity who is not authorized to receive that information;
- (r) crimes involving improper disposition of certain court funds or improper sale, disposal, removal or concealing of encumbered property;
- (s) crimes involving the possession of 4 or more incomplete credit cards or machinery, plates or other contrivance;
- (t) crimes involving altering or changing engine or other number of a vehicle or motor vehicle;
- (u) crimes involving any contractor or subcontractor justly indebted to a supplier of material or labor who accepts payment for construction and knowingly and intentionally applies the proceeds to a use other than paying those persons with whom he contracted;
- (v) crimes involving knowingly authorizing or assisting in the publication, advertising, distribution or circulation of any false statement or representation concerning any subdivided land offered for sale or lease, or with knowledge that any written statement relating to the subdivided land is false or fraudulent, issuing, circulating, publishing or distributing it;
- (w) crimes involving making or permitting a false public voucher;
- (x) crimes involving a false public voucher, false reports, uttering false statements, paying or receiving public money for services not rendered;
- (y) crimes involving unlawful influencing, unlawful sale of a lottery ticket, unlawful

representation of a business or individual as a credit union, conducting business as a credit union when not authorized to do so, or violations of the New Mexico Uniform Securities Act;

(z) crimes involving extortionate extensions of credit;

(aa) crimes involving the unlawful request, receipt, or offer to another that is exchanged for the promised performance of and official act, or illegal kickbacks;

(bb) failing to comply with the registration or verification requirements of the Sex Offender Registration and Notification Act;

(cc) crimes involving the practice of medicine, dentistry or osteopathic medicine without a license or authorization of the appropriate regulating authority;

(dd) 4th or subsequent driving under the influence of intoxicating liquor or drugs;

(ee) an attempt, solicitation, or conspiracy involving any of the felonies in this subsection.

(2) The board shall not consider the fact of a criminal conviction as part of an application for licensure, or license renewal, unless the conviction in question is one of the disqualifying criminal convictions listed in Paragraph (1) of Subsection F of 16.39.7 NMAC.

(3) The board shall not deny, suspend, or revoke a license, or impose disciplinary action on a licensee on the sole basis of a criminal conviction, unless the conviction in question is one of the disqualifying criminal convictions listed in Paragraph (1) of Subsection F of 16.39.7 NMAC.

(4) 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 Engineering and Surveying Practice 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 disqualifying criminal convictions listed in Paragraph (1) of Subsection F of 16.39.7 NMAC.

(5) In connection with an application for licensure or a license renewal, or disciplinary action, the board shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:

(a) an arrest not followed by a valid conviction;

(b) a conviction that has been sealed, dismissed, expunged or pardoned;

(c) a juvenile adjudication; or

(d) a conviction for any crime other than the disqualifying criminal convictions listed in Paragraph (1) of Subsection F of 16.39.7 NMAC.