

This is an amendment to 16.12.13 NMAC, Sections 8 through 14 effective 6/10/2026.

16.12.13.8 PURPOSE OF ALTERNATIVE TO ~~[DISCIPLINE]~~ DISCIPLINE PROGRAM: The alternative to discipline (ATD) is a voluntary alternative to traditional disciplinary action for a nurse whose competencies may be impaired because of the habitual use of substances, including drugs or alcohol. Individuals may request admission into the program following the filing of a complaint against their nursing license or by self-referral.

[16.12.13.8 NMAC - Rp, 16.12.13.8 NMAC 1/1/2026; A, 6/10/2026]

16.12.13.9 ADMISSION INTO THE ALTERNATIVE TO ~~[DISCIPLINE]~~ DISCIPLINE PROGRAM:

A. Nurses licensed in New Mexico who have had a complaint filed against their nursing license alleging the use or abuse of drugs or alcohol, or who voluntarily submit a written request, shall be given an opportunity to be admitted into the alternative to discipline (ATD).

(1) Following a complaint, individuals who do not accept the opportunity for admission into the program within 30 days of the complaint shall be processed as a disciplinary case.

(2) Individuals who voluntarily requested admission and do not complete the admission process within 30 days of request may be subject to disciplinary action by the board.

(3) It may be recommended that individuals obtain a professional evaluation for chemical dependency or a mental health diagnosis and submit a copy of the evaluation to the alternative to discipline (ATD) program.

(4) The initial contract is a “no use” contract to include prescription medications unless written notification is given by the licensed provider prescribing the medication for FDA approved medications.

(5) Signatures on the initial contract and amendments constitute a release of information for the alternative to discipline (ATD) program to contact all supporting individuals.

B. Request for admission shall be made, in writing, to the alternative to discipline (ATD) program coordinator or the executive director of the board of nursing.

C. Each nurse requesting admission shall be scheduled for an admission interview and preparation of an initial contract.

(1) The initial contract shall include conditions which must be met by a participant.

(2) The contract may be individualized but the form may not be substantially changed without the approval of the board.

(3) The initial preparation of the contract will be done by the alternative to discipline (ATD) program coordinator, executive director, or experienced regional advisory committee member.

(4) The nurses in the alternative to discipline (ATD) program may have their practice restricted including:

(a) prohibiting access to controlled substances including narcotics,

(b) prohibiting night shift work,

(c) prohibiting overtime work,

(d) prohibiting agency work, float pool work or home health/hospice care work or any work in which a supervisor is not present in the patient care area to supervise the nurse, and

(e) restricting APRNs from prescribing controlled substances or, when indicated, restricting APRNs from prescribing all dangerous drugs;

(5) If the participant in the alternative to discipline (ATD) program requests permission to work, the participants must sign an employment contract as an addendum to the initial contract.

(6) Beginning on December 1, 2022, any alternative to discipline (ATD) program contract shall include the following conditions to which any participant entering into a new alternative to discipline (ATD) program contract shall knowingly and voluntarily consent in writing as a prerequisite to program participation:

(a) the participant in the program agrees that the board may summarily suspend the participant’s nursing license (or multiple licenses, if applicable) upon receiving information deemed to be credible by the board suggesting that the participant has violated the terms of the alternative to discipline (ATD) program contract;

(b) any summary suspension may last no longer than ninety days; and

(c) the board may order a summary suspension without hearing, provided that beforehand the board shall provide the participant with notice of the possible suspension and an opportunity to submit any evidence, argument, or other information in writing as to why the board should not summarily suspend the participant's license.

[16.12.13.9 NMAC - Rp, 16.12.13.9 NMAC 1/1/2026; A, 6/10/2026]

16.12.13.10 MONITORING PARTICIPANTS IN THE ALTERNATIVE TO ~~[DISCIPLINE]~~ DISCIPLINE PROGRAM:

A. Participants must ~~[assure]~~ ensure that required written reports and drug screens are submitted in accordance with the provisions of the alternative to discipline (ATD) program contract and contract amendments. Written reports and drug screens *must* be received by the program monthly or in time interval specified in the contract.

(1) Written reports of the same type and several drug screens received together are not acceptable and may result in the participant being noncompliant.

(2) Drug screens shall be scheduled randomly and shall be ~~[observed]~~ conducted in accordance with the guidelines and ~~[protocols]~~ policy approved by the ~~[board]~~ program.

(3) Drug screens must include the participant's identified drug(s) of choice and updated as clinically indicated or when new risks emerge.

(4) Participants are required to check in every day with the drug-testing system to determine whether testing is required on that day.

(5) All participants are required to complete a minimum of two drug tests per month, plus one additional drug test per year.

(6) All participants must complete 52 therapy visits within two years of the date they enter the program.

(7) All participants must complete a substance use disorder treatment program at least once during program participation and may be required to complete additional treatment if warranted.

B. Participants are required to meet with the regional advisory committee members and the alternative to discipline (ATD) program staff periodically for an evaluation of their progress in recovery and participation in the program.

(1) After one year of acceptable compliance, amendments may be made in the participant's contract based on the participant's progress in recovery and participation in the program.

(2) Contracts and contract amendments must be submitted with all required signatures within two weeks of the intake meeting date.

(3) Failure to meet regularly as scheduled may result in being reported to the board for noncompliance C. Participant shall notify the alternative to discipline (ATD) program coordinator and the executive director of the board, immediately, of a pending relocation out-of-the state of New Mexico. The participant shall complete and submit the out-of-state relocation form. The executive director shall notify the board of nursing in the state in which participant intends to practice that the licensee is a participant in the New Mexico board of nursing's alternative to discipline (ATD) program. Participants who relocate out-of-state must comply with the NM alternative to discipline (ATD) program requirements until participants have been discharged from the program.

[16.12.13.10 NMAC - Rp, 16.12.13.10 NMAC 1/1/2026, A, 6/10/2026]

16.12.13.11 RELAPSES AND NONCOMPLIANCE WITH THE ALTERNATIVE TO ~~[DISCIPLINE]~~ DISCIPLINE PROGRAM CONTRACT:

A. Participants who are noncompliant with their contract and who do not cooperate with the program shall be reported to the board of nursing.

(1) Reports shall be made to the board using the participant's confidential file number.

(2) The participant's name shall not be disclosed to the board until the board orders a letter of reprimand, pre-notice of contemplated action settlement agreement, a notice of contemplated action, or other formal discipline.

B. The alternative to discipline (ATD) program coordinator or the executive director shall file a sworn complaint after a verbal or written report of a relapse, positive drug screen or no verbal or written communication with the alternative to discipline (ATD) program for three months.

(1) A relapse is defined as the unauthorized use of any mind-altering drug or alcohol.

(2) The relapse shall be reported to the board of nursing at its next regularly scheduled meeting.

C. The board may move for a notice of contemplated action and may summarily suspend the license of the participant for a period not to exceed 90 days pending the completion of a formal disciplinary proceeding as provided by the alternative to discipline (ATD) program contract, based on a participant's relapse or positive drug screen.

D. An individual whose license is reinstated following a summary suspension shall remit the required reinstatement fee.

E. Participants who appear before the board for a disciplinary hearing may be required to enter into a new alternative to discipline (ATD) program contract.

[16.12.13.11 NMAC - Rp, 16.12.13.11 NMAC 1/1/2026; A, 6/10/2026]

16.12.13.12 DISCHARGE FROM THE ALTERNATIVE TO ~~DISCIPLINE~~ DISCIPLINE PROGRAM:

A. Successful discharge:

(1) A participant who remains drug and alcohol free for three full years and complies with all conditions of the participant's alternative to discipline (ATD) program contract for at least 24 months may request a successful discharge from the alternative to discipline (ATD) program.

(2) A participant must work as a nurse or APRN for 520 hours in the last two years of the contract to be eligible for successful discharge.

(a) A nurse who has worked for 520 hours in the last two years of the contract and who has worked for 200 hours without any alternative to discipline (ATD) contract practice restrictions is eligible to apply for a multistate license.

(b) A nurse who has worked for 520 hours in the last two years of the contract, with alternative to discipline (ATD) contract practice restrictions, is eligible for a single state license. Any license with a condition of practice is considered an encumbered license and is not eligible for a multistate license.

(3) Prior to the board's grant of any successful discharge, the participant must be evaluated for discharge by a quorum of advisory committee members or the alternative to discipline (ATD) program coordinator. In addition, the participant must submit letters of recommendation from a supervisor, a sponsor, and (if applicable) a counselor, as well as an additional letter written by the participant personally.

(4) Upon the participant submitting all required documentation and the participant's completion of the required evaluation, the alternative to discipline (ATD) program coordinator shall make a recommendation to the board at its next regularly scheduled meeting regarding the approval or disapproval of discharge for the participant.

B. Unsuccessful discharge:

(1) The board may unsatisfactorily discharge a participant from the alternative to discipline (ATD) program based on the participant's failure to comply with the terms and conditions of the alternative to discipline (ATD) program contract.

(2) An unsuccessful discharge does not constitute disciplinary action. If the participant is discharged due to continued non-compliance with the alternative to discipline (ATD) contract, the participant may incur discipline related to contract violations.

[16.12.13.12 NMAC - Rp, 16.12.13.12 NMAC 1/1/2026; A, 6/10/2026]

16.12.13.13 ALTERNATIVE TO ~~DISCIPLINE~~ DISCIPLINE PROGRAM PARTICIPANT RECORDS:

A. All alternative to discipline (ATD) program participant records are strictly confidential and shall be maintained by the board in accordance with Section 61-3-29.1 NMSA 1978.

B. Subject to any additional confidentiality as otherwise provided by law, the board may disclose the records of a participant in the following circumstances:

- (1) disclosure is required pursuant to the nurse licensure compact;
- (2) disclosure is for the purposes of reporting to the board concerning a nurse who is not cooperating and complying with the alternative to discipline (ATD) program contract;
- (3) the participant leaves the state prior to successful discharge;
- (4) the participant presents an immediate danger to self or to the public; or
- (5) the participant is no longer in the program, and the board has taken disciplinary action against the participant based on noncompliance with the alternative to discipline (ATD) program contract.

[16.12.13.13 NMAC - Rp, 16.12.13.13 NMAC 1/1/2026; A, 6/10/2026]

16.12.13.14 REGIONAL ADVISORY COMMITTEES:

A. The board shall establish regional advisory committees throughout the state in accordance with Section 61-3-29.1 NMSA 1978 for the purpose of assisting the ATD program coordinator to conduct admission interviews, prepare initial contract and to periodically evaluate ~~[participants]~~ participants' progress in recovery and participation in the program.

B. Members of advisory committees shall be appointed by the board and shall function under the direction of the board. The term of the appointment shall be two years. Regional advisory committee members may apply for re-appointment for a maximum of eight years or four two-year terms.

C. No current member of the board shall be appointed to an advisory committee.

D. As permitted and authorized by the executive director, the program coordinator shall be the liaison between each regional advisory committee and the board.

[16.12.13.14 NMAC - Rp, 16.12.13.14 NMAC 1/1/2026; A, 6/10/2026]