

Policy on Criminal Conviction or Pending Criminal Charges

Policy No. 22-001

Updated February 24, 2022

Purpose:

The Board of Allied Health Professions (“the Board”) issues this policy to explain when an applicant’s criminal conviction could lead to the Board denying that applicant a license. Under G. L. c. 112, § 23B, an applicant shall “furnish[] satisfactory proof that [they are] of good moral character” and the Board may discipline a licensed practitioner for having “been convicted of a felony or of a crime involving moral turpitude....” G. L. c. 112, § 23K(b). Pursuant to Chapter 69 of the Acts of 2018 (An Act Relative to Criminal Justice Reform), the Board is required to provide “a list of the specific criminal convictions that are directly related to the duties and responsibilities for the licensed occupation that would disqualify an applicant from eligibility for a license.” The Board has determined that no single conviction alone would disqualify an applicant from a license, but factors such as a very recent conviction, other criminal convictions, or aggravating factors (such as a crime being caused by substance abuse issues, the crime being part of a pattern of violence, or the matter leading to a level 3 Sex Offender designation) could justify the Board in denying a license to an otherwise eligible applicant. As a result, any conviction could lead to the Board denying an applicant a license, including ALL the crimes listed on the Master Crime List issued by the Massachusetts Sentencing Commission at this link:

<https://www.mass.gov/doc/master-crime-list>

This policy provides guidance to applicants and Board staff members regarding conviction and pending criminal case information that requires further review and/or the applicant’s appearance before the Board to determine eligibility for licensure.

Policy:

The Executive Director and Associate Executive Director are authorized, in conjunction with Board Counsel, to review the records of criminal convictions and pending criminal cases in Criminal Offender Record Information (CORI) received from the Department of Criminal Justice Information Services or otherwise made available to the Board to determine whether review or an appearance before the Board is necessary for an applicant who has a record of one or more criminal convictions. In determining who must appear before the Board, the Executive Director, Associate Executive Director, and Board Counsel shall act in a manner consistent with the following guidelines.

An applicant must be reviewed by the Board and/or appear at a Board meeting where:

1. The applicant has been convicted of any felony other than a motor vehicle offense involving operation under the influence of alcohol or any other controlled substance within five (5) years of the application date.
2. The applicant has been convicted of any motor vehicle offense involving the loss of life.

3. The applicant has been convicted of more than two (2) misdemeanors within the past ten (10) years.
4. The applicant has a pending criminal case concerning an open felony criminal charge, not including motor vehicle operation-related offenses, for which a disposition has not yet been entered.
5. The applicant has been convicted of or has a pending criminal case that relates to fraudulent activities in his or her professional practice.
6. The applicant has been convicted of, or has a pending criminal, civil, or disciplinary case that relates to a sex offense, or is currently classified as a Sex Offender by the Sex Offender Registry Board.

In addition to the above, the Executive Director, Associate Executive Director, and/or Board Counsel may require Board review and/or an appearance before the Board of any applicant whose record contains any conviction or pending charge that the Executive Director, Associate Executive Director, or Board Counsel believes the Board should review. In evaluating whether an appearance is necessary, the Executive Director, Associate Executive Director, and Board Counsel will consider multiple factors, including but not limited to, whether the applicant has been convicted of an offense that involved fraud, dishonesty or deceit or an offense that calls into question the applicant's ability to practice his or her profession with a reasonable degree of skill and safety and in accordance with accepted standards of sound professional practice.

Applicants who fail to disclose their conviction in response to the application question shall be notified by the Executive Director, Associate Executive Director, or Board Counsel and may be allowed the opportunity to amend their application response. In the case of either an applicant's refusal to amend or of concern regarding an applicant's misrepresentation or lack of candor in a response, the Board will review for denial of an application for six (6) months or more, after which time an applicant may submit a new application.

If the Board reviews an applicant or requires an appearance by the applicant under this policy, the applicant shall be provided with a copy of this policy, a copy of the CORI, and a copy of DCJIS's Information Concerning the Process for Correcting a Criminal Record. The applicant must then be provided with an opportunity to dispute the accuracy of the CORI. Upon notification from the applicant that they have corrected their record, the Board will re-run the CORI to verify.

The applicant will be notified in a timely manner of the Board's decision regarding the applicant's suitability for licensure, the basis for that decision, and any hearing rights.

Authority: G. L. Chapter 13, Section 11A