

**MASSACHUSETTS BOARD OF STATE EXAMINERS OF PLUMBERS AND
GAS FITTERS POLICY BULLETIN REGARDING REVIEW OF CONVICTION
AND PENDING CRIMINAL CASE DATA REGARDING APPLICANTS FOR
LICENSURE**

**Enacted December 5, 2007
Amended October 30, 2013**

The Board of State Examiners of Plumbers and Gas Fitters voted today to adopt the following policy guidelines. These policy guidelines are intended as the Board's guidelines for eligibility to obtain licensure in the plumbing profession without first having to appear before the Board where an applicant has a record of criminal convictions or pending criminal cases.

Purpose: To provide guidance to applicants and to Board staff members regarding the type, age and disposition of conviction and pending criminal case information requiring an appearance before the Board to determine eligibility for the examination required for licensure as a plumber in Massachusetts.

Policy: At its regularly scheduled Board meeting on, December 5, 2007 (amended October 30, 2013), the Board of State Examiners of Plumbers and Gas Fitters voted to adopt the following policy:

The Executive Director, Associate Executive Director, and Board Counsel (“staff”) are authorized, to review the records of criminal convictions and pending criminal cases received from the Department of Criminal Justice Information Services and the Sex Offender Registry Board to determine whether an appearance before the Board is necessary for applicants for plumbing licenses who have answered positively in response to the application question regarding the existence of past criminal convictions (or whose convictions were otherwise discovered despite the answer on the application) and to otherwise implement the requirements of this policy. Staff, in all cases, are free to decide that an individual must appear before the Board without regard to this policy. However, in determining who must appear before the Board, staff shall act in a manner consistent with the following guidelines:

An applicant must appear before the Board where:

- 1. The applicant's record of convictions includes any convictions, whenever they might have occurred, other than convictions for misdemeanor motor vehicle operation related offenses, resulting in an actual term served in a state prison or in a county correctional facility of incarceration of more than three (3) years.**

2. **The applicant's record of convictions includes any convictions in the last ten (10) years, other than convictions for misdemeanor motor vehicle operation related offenses, resulting in a term of actual incarceration of any length of time.**
3. **The applicant's record of convictions includes any felony conviction(s) less than ten (10) years of age from the date of application, whatever disposition was imposed as a result of said conviction(s).**
4. **The applicant's record of convictions includes any misdemeanor conviction(s) less than five (5) years old, not including misdemeanor motor vehicle operation related offenses, which resulted in any term of probation or any term of incarceration, whether or not said term of incarceration was suspended or stayed.**
5. **The applicant's record of convictions or pending criminal cases contains an open misdemeanor or felony criminal charge for which a disposition has not yet been entered. However, the applicant will not be required to appear before the Board if staff determine, based on the dates associated with the matter, that 1) the disposition was likely excluded from the Applicant's record in error, AND 2) the conviction(s) was/were for minor offenses, the Applicant does not have an extensive criminal record AND 3, the minor convictions happened more than ten years in the past; OR a reasonable person could believe that the open matter would not constitute a criminal offense.**
6. **The applicant has answered no with regards to questions regarding criminal convictions on any applications filed and the conviction would not otherwise require the applicant to appear before the Board. Notwithstanding these provisions, an applicant may be allowed to sit for an examination without delay if staff determine that 1) a reasonable person could believe that the action taken did not constitute a criminal conviction, or 2) the Applicant does not have an extensive criminal record AND, the only conviction(s) is/are minor and happened more than ten years in the past.**
7. **Staff shall not grant a license to any applicant whose record of convictions or pending criminal cases contains any active conditions of probation or parole, even if such probation is scheduled to end at a future time based on a continuance without a finding. Only the Board itself, after meeting with the applicant, shall retain the right to grant a license to an applicant under such an encumbrance. However, it is the duty of the applicant to request such a meeting.**
8. **Special Rules for Sex Offenders**

Due to the severe nature of sexual crimes as well as concern that sexual offenders may reoffend, the Commonwealth of Massachusetts has enacted laws requiring sexual offenders to be reviewed and classified by a specialized state agency, the Sex Offender Registry Board (“SORB”). Due to the severe nature of sexual crimes, the Board has determined that applicants who are subject to classification by SORB require heightened scrutiny before being allowed to obtain a license. Therefore, applicants who have been convicted of sexual crimes shall be subject to the following procedures:

- A. Level 3 Sex Offenders – Due to a determination from the SORB that they are a high risk of reoffense, level 3 sex offenders are not eligible for licensure. Individuals with such a classification must seek and obtain a reclassification from the SORB to a lower level prior to seeking licensure.
- B. Level 2 Sex Offenders – Due to a determination from the SORB that they are a moderate risk of reoffense, level 2 sex offenders must provide an evaluation from a Massachusetts licensed psychologist or psychiatrist stating that, based on their education, training, experience, and evaluation of the applicant and his/her record, the applicant has a low risk of reoffending and that they present very little risk to the community if allowed to practice plumbing. Applicants who are unable to provide such documentation are not eligible for licensure; they will not be considered until they obtain this documentation or have been reclassified from the SORB to be a level 1 sex offender. Once the documentation has been obtained, they shall be subject to the standard screening requirements in this policy.
- C. Level 1 Sex Offenders – Due to a determination from the SORB that they are a low risk of reoffense, level 1 sex offenders shall be subject to the standard screening requirements in this policy.
- D. Unclassified Sex Offenders – Applicants who are not classified as sex offenders but who have been convicted of sexual crimes must report their status to the Board prior to being approved for licensure. Subject applicants who are unclassified due to not being required to be registered (and can produce documentation to that effect) shall be subject to the standard screening requirements in this policy. Subject applicants who have been convicted of a sexual crime and are unclassified pending the final determination of classification from the SORB must wait until they are assigned a classification level before being eligible for further Board review.

Discussion: Under G.L. c. 142, § 4, the Board of State Examiners of Plumbers and Gas Fitters is authorized to “make rules as they consider proper for the performance of their duties.” Further, under G.L. c. 142, §§3A and 4, the Board is authorized to determine qualifications and applications for individuals who seek licensure. Finally, under G.L. c. 112, §61, the Board has disciplinary authority when an individual is convicted of a crime reasonably related to the profession. In order to determine suitability for licensure, the Board has become certified to access all conviction and pending criminal case data for all candidates for initial licensure and license renewal.

On the basis of those guidelines, the Board has determined that the existence of certain criminal convictions or pending criminal cases, based on the nature and age of the offense and the disposition of the offense, should not bar a candidate from licensure. However, other offenses, given their serious nature, recent age, or consequences, should require that a candidate who has been convicted of such offenses be interviewed by the Board to determine suitability for licensure. This interview is to determine that the candidate for licensure does not pose a risk of harm to the consumer of plumbing services as provided by the candidate.

Consequently, the Board has delegated to staff the authority to determine, based on the above guidelines, which candidates for licensure may obtain licensure, by application or examination without being interviewed by the Board, and which candidates, because of the nature of their convictions, must appear before the Board for an interview before a determination can be made by the Board as to those candidates’ suitability for licensure. Provisions are also made in these guidelines to require a Board appearance for candidates whose applications are not entirely truthful.

NOTE: 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, on its own, would result in rendering an applicant disqualified from being eligible for a license. However, other factors, such as a conviction being very recent, the applicant having a history of other criminal convictions, or the conviction involving aggravating factors (such as a crime being caused by substance abuse issues, the crime being part of a pattern of violence, the matter leading to a level 3 Sex Offender designation, etc.) might justify denying a license to an otherwise eligible candidate. As a result any conviction could lead to a license denial. This includes ALL the crimes listed on the Master Crime List issued by the Massachusetts Sentencing Commission and found at this link:

<https://www.mass.gov/files/documents/2016/08/my/mastercrimelist.pdf>