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**MASSACHUSETTS BOARD OF REGISTRATION IN OPTOMETRY  
POLICY BULLETIN REGARDING APPLICANTS WITH CRIMINAL  
CONVICTIONS OR PENDING CRIMINAL CHARGES**

The Board of Registration in Optometry voted on 12/19/2018, to adopt the following amended policy guideline outlining when an applicant who has criminal convictions or pending criminal charges must receive further review by the Board and/or appear before the Board prior to receiving approval to sit for the licensing examination. These policy guidelines are intended as the Board's guidelines for eligibility for those applicants who have met the MINIMUM requirements to sit for examination but have been convicted of a crime or face pending criminal charges.

**Policy No. 08-001 updated 12/19/18**

**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 further review and/or the applicant's appearance before the Board to determine eligibility for examination required for registration as an optometrist in the Commonwealth.

**Policy:**

To be eligible for licensure as an optometrist, an applicant must furnish evidence satisfactory to the Board that the applicant is of "good moral character." M.G.L. c. 112, s. 68. Conduct that results in criminal conviction or pending charges against an applicant raises questions regarding the applicant's good moral character and thus requires careful consideration by the Board.

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 type of conviction, on its own, automatically disqualifies an applicant from obtaining an optometry license. However, relevant factors, such as the nature of the conviction, the 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>

In order to determine suitability for licensure, the Board has become certified by the Criminal History Systems Board for access to all conviction and pending criminal case data for all candidates for initial licensure and license renewal as an optometrist. The Executive Director is authorized, in conjunction with Board Counsel, to review the records of criminal convictions and pending criminal cases received from the Criminal History Systems Board to determine whether review or an appearance before the Board is necessary for an applicant for examination who has answered positively in response to the application question regarding the existence of past convictions. In determining if review or appearance before the Board is necessary, the Executive Director and Board Counsel shall act in a manner consistent with the following guidelines:

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

1. The applicant has been convicted of an offense, whenever it occurred, that resulted in a term of incarceration of more than three (3) years.
2. The applicant has been convicted of an offense in the last ten (10) years that resulted in a term of incarceration of any length of time.
3. The applicant has been convicted of any felony within ten (10) years of the application date.
4. The applicant has been convicted of more than 2 misdemeanor convictions within the past ten years.
5. 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.
6. The applicant has been convicted or has a pending criminal case that relates to fraudulent activities in his or her professional practice.

In addition to the above, the Executive Director or Board Counsel is authorized to 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 or Board Counsel believes the Board should review. In evaluating whether an appearance is necessary, the 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 optometry with a reasonable degree of skill and safety and in accordance with accepted standards of sound professional practice.

The Board follows the Division of Professional Licensure's Policy Bulletin on the Handling and Evaluation of CORI Records ("DPL CORI Policy") as amended in September, 2015 in evaluating criminal convictions and pending criminal case information to determine an applicant's suitability for licensure. Factors that the Board may review when determining suitability for licensure are set forth in Section VII of the DPL CORI policy.