

Massachusetts Board of Certification of Operators of Drinking Water Supply Facilities

Policy on Review of Criminal Convictions And CORI (Criminal Offender Record Information)

Adopted 03/05/10

Amended February 5, 2021

To assist applicants in understanding when a criminal conviction may lead to a license denial, the Board of Certification of Operators of Drinking Water Supply Facilities ("Board") has created this policy, which explains when a conviction rises to the level where it could lead to a license denial. Under the Criminal Justice Reform Act (Chapter 69 of the Acts of 2018), 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 type of conviction, on its own, would disqualify an applicant 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 violent or 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 via this link:

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

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 received from the Criminal Record Review Board or otherwise made available to the Board to determine whether review or an appearance before the Board is necessary for an applicant for operator certification or upgrade or renewal of a licensee. No applicant will appear before the Board without prior Board approval. 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. Other than these circumstances, the Executive Director and Board Counsel may act upon applications with no further or other Board involvement.

An applicant must be reviewed by the Board and may be required to appear at a Board meeting where:

1. The applicant has been convicted of an offense reasonably related to operation of drinking water supply facilities, water management, water supply, drinking water treatment, drinking water distribution, water metering, or wastewater treatment;
2. The applicant has been convicted of an offense, whenever it occurred, that resulted in a term of incarceration of more than three (3) years.
3. The applicant has been convicted of an offense in the last ten (10) years that resulted in a term of incarceration of 30 days or more.
4. The applicant has been convicted of any felony within ten (10) years or any violent felony within 20 years of the application date.

5. The applicant has been convicted of three (3) or more misdemeanors within the past ten (10) years.
6. 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.
7. The applicant has been convicted or has a pending criminal case that relates to fraudulent activities in his or her professional practice.
8. The applicant has failed to disclose a criminal conviction and such conviction is not a misdemeanor that occurred more than 10 years ago. In such instances, Board staff will request a statement explaining the reasons for the non-disclosure prior to Board review.
9. The applicant or registrant is currently classified as a Level 2 or Level 3 Sex Offender by the Sex Offender Registry Board.

In addition to the above, the Executive Director, Associate Executive Director or Board Counsel are authorized to require Board review and 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 believe 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 the operation of drinking water supply facilities with a reasonable degree of skill and safety and in accordance with accepted standards of sound professional practice.

Applicants who fail to disclose their convictions in response to the application question shall be notified by the Executive Director and Board Counsel and will 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 misrepresentations or lack of candor in a response, the Board may review for denial of an application for at least six (6) months and possibly permanently.

The purpose of the Board review of certain convictions is to determine whether the individual's practice of the profession would pose a risk to the public. Factors that the Board considers in determining an applicant's suitability for licensure may include, but not be limited to the following:

- (a) The requirements of public protection, as determined by the Board;
- (b) The relationship between practicing as an operator of drinking water supply facilities and public protection;
- (c) The time since the conviction;
- (d) The age of the applicant at the time of the offense(s);
- (e) The seriousness and specific circumstances of the offense(s);
- (f) The number of offenses;
- (g) Whether the applicant has pending charges;
- (h) Any relevant evidence of rehabilitation or lack thereof;
- (i) Submission of false information on an application for licensure and/or failure to provide required notification of new information;
- (j) Whether the applicant or registrant is currently classified as a Sex Offender by the Sex Offender Registry Board and if so, the applicant's or registrant's level of classification and compliance with applicable laws; and

- (k) Any other relevant information, including information submitted by the applicant/licensee/registrant or requested by the Board.

If the Board is inclined to make an adverse decision based on the results of a CORI check, the applicant must be notified immediately. The applicant shall be provided with a copy of this Policy on Review of Criminal Convictions and CORI, a copy of the applicant's CORI report, and a copy of Information Concerning the Process for Correcting a Criminal Record issued by the Department of Criminal Justice Information Systems (DCJIS). The applicant must then be provided with an opportunity to dispute the accuracy of the CORI. It shall be the burden of the applicant challenging the accuracy of CORI to provide a corrected CORI or certified court records to show that the original CORI was inaccurate.

The applicant will be notified of the Board's decision regarding the applicant's suitability for licensure and the basis for it in a timely manner. The applicant must also be notified of any hearing rights pursuant to the standard denial of licensure process and the DPL policy on CORI.

If a licensee or applicant has a question concerning this policy, they may call the Board at 617-727-9940, email the Board at drinkingwaterboard@mass.gov, or send mail to the following address:

Executive Director
Board of Certification of Operators of Drinking Water Supply Facilities
1000 Washington Street, 7th Floor
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