

Policy on Criminal Convictions or Pending Criminal Charges

Updated August 24, 2021

To assist applicants and licensees seeking renewal in understanding when a crime may lead to a license denial, the Board of Registration of Social Workers ("the Board") voted at its meeting on August 24, 2021 to adopt the following policy to explain when a conviction rises to the level where it could lead to a license denial. 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."

In order to determine suitability for licensure, the Board has become certified by Department of Criminal Justice Information Services (DCJIS) for access to criminal offender record information for all candidates for initial licensure and license renewal as a social worker. 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 applicant. As a result, any conviction could lead to a license denial, including all of 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.

Purpose:

The purpose of this policy statement is to provide guidance to Board staff regarding the type, age, and disposition of conviction and pending criminal case information requiring further review and/or the licensee/applicant's appearance before the Board to determine eligibility for examination required for licensure and/or renewal of 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 DCJIS or otherwise made available to the Board to determine whether review or an appearance before the Board is necessary for an applicant for examination or a licensee for renewal who has answered positively in response to the question regarding the existence of past and/or recent convictions. In determining who must appear before

the Board, the Executive Director, Associate Executive Director, and/or Board Counsel shall act in a manner consistent with the following guidelines:

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

1. The applicant/licensee 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/licensee has been convicted of an offense in the last ten (10) years that resulted in a term of incarceration of thirty (30) days or more.
3. The applicant/licensee has been convicted of any felony within ten (10) years of the application date.
4. The applicant/licensee has been convicted of more than two (2) misdemeanors within the past ten (10) years.
5. The applicant/licensee 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/licensee has been convicted or has a pending criminal case that relates to fraudulent activities in their professional practice.
7. The applicant/licensee has failed to disclose two (2) or more misdemeanor convictions and/or one (1) or more felony conviction(s) whenever they occurred. In such instances, the Board staff will request a statement explaining the reasons for the non-disclosure prior to Board review.
8. The applicant/licensee 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 Level 2 or Level 3 Sex Offender by the Sex Offender Registry Board.

In addition to the above, the Executive Director, Associate Executive Director, and/or Board Counsel are authorized to require Board review and/or an appearance before the Board of any applicant/licensee 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, Associate Executive Director, and/or Board Counsel will consider multiple factors, including but not limited to, whether the applicant/licensee 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 social work with a reasonable degree of skill and safety and in accordance with the accepted standards of sound professional practice.

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. 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 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: M.G.L. Chapter 13, Section 84