

COMMONWEALTH OF MASSACHUSETTS
BOARD OF REGISTRATION IN NURSING

Licensure Policy 00-01¹

Title	Determination of Good Moral Character Compliance
Purpose	This policy is used by the Board to review the "Good Moral Character" (GMC) of applicants for initial nurse licensure and applicants for authorization as Advanced Practice Registered Nurses (APRN). This Policy is also used by the Board as a guide to determine the GMC of nurses and APRNS already licensed and/or authorized by the Board.
Date Adopted/Revised	September 8, 1999; effective January 1, 2000; revised January 9, 2002; clarified April 4, 2002, May 22, 2002, November 6, 2002; revised February 14, 2007; September 9, 2009; October 13, 2010, April 13, 2011 (revised), June 12, 2013 (revised), November 13, 2013 (revised)
Application of Policy	The Board will evaluate each application for initial nurse licensure by examination and by reciprocity, and for APRN authorization under the policy governing the determination of GMC in effect on the date the Board receives the application.
Definitions	
Attributes of GMC	<ol style="list-style-type: none"> 1. GMC must be demonstrated by reliable evidence of good conduct; 2. Examples of such conduct include: <ol style="list-style-type: none"> a. honesty; b. trustworthiness; c. integrity; d. accountability; e. reliability; f. distinguishing between right and wrong; g. avoidance of aggression to self and others; h. taking responsibility for one's own actions and similar attributes found relevant by the Board.
Conduct Showing the Absence of GMC	The absence of the attributes of GMC is most often demonstrated by certain conduct. Such conduct includes hostile or destructive conduct to another or to self and conduct that demonstrates a disregard for the welfare, safety or rights of another or disregard for honesty, integrity or trustworthiness. Examples of such conduct include the conduct underlying certain criminal convictions and disciplinary actions taken by a licensure/certification body in another jurisdiction.
Conviction	For the purpose of this Policy, "conviction" means the final judgment on a verdict or finding of guilty, a plea of guilty, a plea of <i>nolo contendere</i> (no contest), or a plea treated by the court as a guilty plea, regardless of the jurisdiction in which the conviction was entered.

Rules	
GMC is a Prerequisite for Initial Licensure by Exam, Licensure by Reciprocity, and for Initial APRN Authorization	An applicant must be “of good moral character” for the Board to find the individual to be safe and competent to practice nursing. The GMC standard is created by statute and it assists the Board in determining whether an individual’s character poses a risk to the public health, safety or welfare and/or to the likely provision by the individual of safe, competent nursing care.
The Burden of Demonstrating GMC is on the Applicant	The applicant must meet this burden by submitting to the Board required documentation of all available pertinent information as to the applicant’s present and past conduct, disciplinary history, and criminal history.
Withdrawal or Expiration of Application Prior to GMC Evaluation Will Result in a Determination of Non-compliance	<p>An application that is withdrawn by an Applicant <u>before</u> the Board either receives all required documents or completes the evaluation of eligibility for licensure will be denied licensure based on non-compliance with the Board’s GMC licensure requirement.</p> <p>An applicant whose application expires prior to the Board’s receipt of all required documents will be denied licensure based on non-compliance with the Board’s GMC licensure requirement.</p>
Disclosure of Licensure Disciplinary Actions and Criminal Convictions	<p><u>All</u> licensure disciplinary actions and criminal convictions (including misdemeanors and felonies) must be disclosed regardless of when they occurred.</p> <p>Motor Vehicle Offenses that <u>do not</u> involve drugs or alcohol are not required to be disclosed.</p>
Any Open Criminal Matter or Licensure Disciplinary Action at the Time of Application will Result in a Determination of Non-compliance	<p>Failure to meet the following requirements related to a criminal matter or licensure disciplinary action at the time of application will result in a determination of non-compliance with GMC and the application will be denied:</p> <ol style="list-style-type: none"> 1) all court-ordered requirements in connection with all criminal matters involving the applicant have been closed for at least one (1) year; and 2) all requirements imposed by a licensure/certification body in connection with disciplinary action (including probation) are completed and that the license is not subject to any restrictions.
There are Permanent and Temporary Exclusions from Licensure and Authorization based upon GMC Determination	<p><u>Permanent Exclusion</u></p> <p>Conduct underlying certain felony convictions will result in mandatory permanent exclusion from the practice of nursing in Massachusetts. <u>Examples of such conduct are:</u></p> <ol style="list-style-type: none"> 1) conduct underlying the crimes listed on Attachment A and any other violent crime against any person(s) that involves extreme disregard of human life; 2) trafficking in, or illegally manufacturing, any controlled substance; and 3) exploitation or criminal mistreatment of a vulnerable individual including, a minor, elder and/or disabled person.

	<p><u>Temporary (Five Year) Exclusion</u> When the applicant has engaged in any of the following conduct within the five (5) year period immediately before the date of an application s/he shall be temporarily excluded from the practice of nursing in Massachusetts (unless s/he meets the requirements in the "Exception to Temporary Exclusion" section below):</p> <ol style="list-style-type: none"> 1) conduct for which there is a criminal conviction that does not result in permanent exclusion; 2) knowingly falsifying or attempting to falsify, any documentation or information submitted on an application for examination or licensure or for APRN authorization, that is related to the qualifications for such examination or licensure, or authorization; or 3) cheating on the National Council Licensure Examination (NCLEX), or on any other licensure or certification examination. <p><u>Timing of the Period of Temporary Exclusion</u> Temporary exclusion shall be for:</p> <ol style="list-style-type: none"> 1) at least five (5) years from the date of the most recent conviction or the date the conduct at issue last occurred (whichever is later), and 2) at least one (1) year from the date of the applicant's successful completion of all court-ordered requirements.
<p>There are Certain Cases When the Required Temporary Exclusion Will Not Apply (Exception to Temporary Exclusion)</p>	<p><u>Exception to Temporary Exclusion</u> An applicant who falls under the Temporary Exclusion section of this Policy due to his or her criminal conviction may still ask the Board to evaluate his/her compliance with the GMC requirement, but <u>only</u> in the following circumstances:</p> <ol style="list-style-type: none"> 1) the applicant makes a written request (with substantiating documentation satisfactory to the Board) for a determination of his/her compliance with the GMC requirement; and 2) the applicant: <ol style="list-style-type: none"> a) during the five (5) years immediately preceding the date of the application, has only one criminal conviction for a single misdemeanor offense or multiple criminal convictions for misdemeanor offenses that are all based on the same one (1) incident or episode; b) was not sentenced to any period of incarceration (whether served, suspended, or stayed), <i>unless, in connection with a first time operating while under the influence or comparable offense: the incarceration, suspended, or stayed sentence was required by the convicting jurisdiction's mandatory sentencing guidelines, and that sentence was the least required by law (Note: this must be substantiated by the applicant and provided to the Board as required documentation);</i> c) successfully completed all related court-ordered requirements, if any, including probation; 3) the applicant's criminal conduct, if it occurred outside Massachusetts, would constitute a misdemeanor in Massachusetts; 4) the applicant's criminal conduct was victimless and nonviolent; and 5) the applicant has no open criminal case(s) against him or her.

	<p>An applicant who the Board finds meets all of these requirements will have his/her GMC compliance determined by the Board using the case by case evaluation process, below.</p>
<p>Case by Case GMC Compliance Evaluation</p>	<p><u>Case by Case GMC Evaluation</u></p> <p>If an applicant is not permanently or temporarily excluded from licensure or authorization under this Policy, the Board will evaluate any conduct demonstrating an absence of the attributes of GMC to determine whether the conduct:</p> <ol style="list-style-type: none"> 1) poses a risk or threat to the public health, safety or welfare; 2) is of significance to the provision of safe and competent nursing care; and 3) is characteristic of the applicant's conduct. <p><u>In doing so, the Board will evaluate factors including:</u></p> <ol style="list-style-type: none"> 1) the nature and seriousness of all conduct at issue, including any criminal conviction(s) or disciplinary action(s) by a licensure/certification body; 2) the sufficiency of the applicant's sustained rehabilitation; 3) the applicant's age at the time the conduct at issue occurred; 4) the frequency of occurrence of the conduct at issue; 5) how recent the conduct was; 6) any mitigating or aggravating circumstances related to the conduct; and 7) the applicant's acknowledgment of her or his accountability for her or his conduct and recognition of its significance to nursing licensure and/or APRN authorization.
<p>Ineligibility Based on Determination of Non-Compliance; Denial of Application for Initial Massachusetts Nurse Licensure by Exam, by Reciprocity, or Advanced Practice Authorization</p>	<p>An applicant who is not in compliance with the GMC requirement will be denied licensure and APRN authorization, and a complaint will be opened and then closed for purposes of reporting as required and authorized by law, and for tracking by the Board.</p> <p><u>Complaint Opened Against an existing RN License of an APRN Applicant</u></p> <p>An applicant for APRN authorization by the Board, who is not in compliance with the GMC requirement, will not be eligible for such authorization. In addition, the Board will open a complaint based on noncompliance with the GMC requirement against any existing Massachusetts nursing license or advanced practice authorization of the applicant.</p> <p><u>Notice and Review of Denial Based on Noncompliance with GMC Requirement</u></p> <p>The Board will notify any ineligible applicant of its decision to deny licensure or APRN authorization, the reason(s) for the denial, and the opportunity for review of the denial. The Board may also inform the applicant of the requirements, if any, that the applicant must satisfy before the applicant may reapply. The Board shall afford the applicant an opportunity for a hearing where the applicant alleges, and can reasonably substantiate, the existence of specific areas of factual dispute relevant to the determination of his or her Good Moral Character ineligibility under this Policy.</p>

	If there are no areas of factual dispute, the Board may rely on written submissions in rendering a final decision on review. Judicial review of a Board final decision to deny licensure or authorization may be sought as provided by G.L. c. 30A, § 14.
Timing of GMC Review	The amount of time that is needed for the Board to determine an initial applicant's compliance with the GMC requirement varies. However, an initial applicant should expect that the process will take at least eight (8) weeks.

¹ **Enabling Authority:** Massachusetts General Laws (G.L.) Chapter 112, sections 74 (RN licensure by examination), 74A (LPN licensure by examination), 76 (licensure by reciprocity), 80B (Advanced Practice authorization) and the Board's regulations at 244 CMR 4.00, 8.02(1) (a), 8.03(1) (a), 8.04(1) (a), 8.04(2) (a), 8.04(3) (a), and 9.03.

ATTACHMENT A

Criminal Convictions Excluding Individuals from Initial Licensure as a Registered Nurse or Practical Nurse by Examination or Endorsement, and from Advanced Practice Authorization by the Board

The felony convictions that will result in the mandatory *permanent* ineligibility for initial Massachusetts licensure as a Registered Nurse or Licensed Practical Nurse and for advanced practice authorization by the Board include, but are not limited to, convictions (as defined by Licensure Policy 00-01) for any of the following criminal offenses by any court in the Commonwealth of Massachusetts, or convictions for any similar criminal offenses by a court in another state or by a federal court:

CONVICTION	DEFINITION
Murder	First degree murder is the killing of a human being committed with deliberately premeditated malice aforethought (intentionally), or with extreme cruelty. All other murder, arising from reckless or negligent conduct, is second degree murder.
Rape	Sexual intercourse by a person with another person who is compelled to submit against their will by force or threat of bodily injury or sexual intercourse with a child under sixteen years of age.
Aggravated sexual assault	The unwanted touching of the genitals, mouth or anus of one person by the genitals of another person as the result of violence, force or the threat of force.
Assault with intent to rape	The use of force or the threat of force with intent to commit rape.
Armed assault with intent to murder with felony intent	Assaulting another with intent to commit murder or maim or disfigure that person.
Armed assault with intent to rob	While being armed with a dangerous weapon assaulting another and robbing, stealing or taking money or personal property from that person.
Burglary, armed assault on occupant	Breaking and entering a dwelling in the nighttime, to commit a felony, armed with a dangerous weapon at the time of such breaking, with any other person being lawfully therein.
Kidnapping	Without lawful authority, forcibly or secretly confining or imprisoning another person within this commonwealth against his will or forcibly carrying a person from the commonwealth against their will or secretly confining or imprisoning a person.

CONVICTION	DEFINITION
Breaking and entering, day/night, intent to commit felony, fear	Entering or breaking and entering, in the day time, a building, ship, vessel or vehicle with intent to commit a felony and placing any person lawfully therein in fear.
Burning a building	Willfully and maliciously setting fire to, burning or causing to be burned a building other than a dwelling.
Burning dwelling house (attempt)	Willfully and maliciously setting fire to, burning or causing to be burned a dwelling house or a building adjacent to a dwelling house.
Indecent assault and battery, child under 14	Any unwanted touching of the breast or genitals either directly or indirectly, enhanced penalty if the victim is fourteen years of age.
Indecent assault and battery, child 14 or over	Any unwanted touching of the breast or genitals either directly or indirectly, enhanced penalty if the victim is fourteen years of age.
Unnatural acts with child under 16	Committing any unnatural and lascivious act with another person, enhanced penalty if the other person is under sixteen years of age.
Assault and battery dangerous intimidation, race, color, religion	Committing an assault or a battery upon a person or damaging the real or personal property of a person with the intent to intimidate such person because of such person's race, color, or religion; an enhanced penalty is imposed if serious bodily injury occurs.
Administering drugs to obtain sex	Administering to or Causing to be taken by a person any drug, matter or thing with intent to stupefy or overpower such person so as to thereby enable any person to have unlawful sexual intercourse.
Induce sex, minor	Inducing any person under eighteen of chaste life to have unlawful sexual intercourse.