

Potential Criminal Background Issues and Licensing from the Virginia Board of Nursing

According to § 54.1-3007 of the Code of Virginia, the Board of Nursing may refuse to admit a candidate to any examination, or refuse to issue a license or certificate, to any applicant with certain criminal convictions. Likewise, the Board may refuse licensure or certification to an applicant who uses alcohol or drugs to the extent that it renders the applicant unsafe to practice, or who has a mental or physical illness rendering the applicant unsafe to practice (referred to as a history of impairment).

Criminal convictions for ANY felony can cause an applicant to be denied nursing licensure.

Misdemeanor convictions involving moral turpitude may also prevent licensure or certification. Moral turpitude means convictions related to lying, cheating or stealing. Examples include, but are not limited to: reporting false information to the police, shoplifting or concealment of merchandise, petit larceny, welfare fraud, embezzlement, and writing worthless checks. While information must be gathered regarding all convictions, misdemeanor convictions other than those involving moral turpitude will not prevent an applicant from becoming a licensed nurse. However, if the misdemeanor conviction information also suggests a possible impairment issue, such as DUI and illegal drug possession convictions, then there still may be a basis for denial during the licensure or certification application process.

Each applicant is considered on an individual basis. There are NO criminal convictions or impairments that are an absolute bar to nursing licensure.

Applications for licensure and certification include questions about the applicant's history, specifically:

1. Any and all criminal convictions ever received;
2. Any past action taken against the applicant in another state or jurisdiction, including denial of licensure or certification in another state or jurisdiction; and
3. Any mental or physical illness, or chemical dependency condition that could interfere with the applicant's ability to practice.

Indicating "yes" to any questions about convictions, past actions, or possible impairment does not mean the application will be denied. It means more information must be gathered and considered before a decision can be made, which delays the usual application and testing process. Sometimes an administrative proceeding is required before a decision regarding the application can be made. The Board of Nursing has the ultimate authority to approve an applicant for testing and subsequent licensure or certification, or to deny approval.

The following information will be requested from an applicant with a criminal conviction:

- A certified copy of all conviction orders (obtained from the courthouse of record);
- Evidence that all court ordered requirements were met (i.e., letter from the probation officer if on supervised probation, paid fines and restitution, etc.);
- A letter from the applicant explaining the factual circumstances leading to the criminal offense(s); and

- Letters from employers concerning work performance (specifically from nursing related employers, if possible).
- Once the Board of Nursing has received the necessary and relevant additional information, the application will be considered. Some applicants may be approved based on review of the documentation provided. Other applicants may be required to meet with Board of Nursing representative(s) for an informal fact finding conference to consider the application. After the informal fact-finding conference, the application may be: i) approved, ii) approved with conditions or terms, or iii) denied. The Board will notify the testing company directly of all applicants approved so that testing may be scheduled. Upon notification of successful completion of the licensure or certification exam, the Board of Nursing will license or certify the individual based on the Board's Order, including any terms imposed for practice.
- NOTE: Failure to reveal criminal convictions, past disciplinary actions, and/or possible impairment issues on any application for licensure or certification is grounds for disciplinary action by the Board of Nursing, even after the license or certificate has been issued. It is considered to be "fraud or deceit in procuring or attempting to procure a license," and a basis for disciplinary action that is separate from the underlying conviction, past action, or impairment issue once discovered. Possible disciplinary actions that may be taken range from reprimand to revocation of a license or certificate.

For questions regarding individual situations pertaining to the above, students should contact the Virginia Board of Nursing. <http://www.dhp.state.va.us/nursing>