

REPORT ON STAFF APPROVAL OF APPLICANTS WITH MINOR CRIMINAL HISTORY

This Report is for informational purposes only and does not require Board action.

Background:

Crimes that have a potential impact on the ability to practice a profession safely or predict how the nurse might treat vulnerable clients in his or her care must be considered as part of a licensing decision. Texas Government Code provides that the Board of Nurse Examiners is entitled to receive criminal background checks from the Texas Department of Public Safety (DPS) and the Federal Bureau of Investigation (FBI) for any licensed nurse, any applicant for licensure or any person requesting a determination of eligibility for license from the board.

The number of **positive hits** (i.e. an individual with a reported crime on his or her criminal background record) reviewed or investigated by the Board has grown to approximately 3000 annually since the implementation of criminal checks through the F.B.I.

The Texas Government Code, Chapter 53, recognizes that there are some forms of criminal behavior which may have little potential impact on licensed occupational competency, and therefore should not affect an agency's licensure decisions.

The Board has historically recognized the lack of public risk for many minor criminal offenses when they have been committed when the person was young and naive. For example, Rule 213.28(I) outlines the criteria for "youthful indiscretions" which would not impede a decision to license a nurse.

There are a number of minor crimes reported to the Board that appear to have little impact on the ability of an individual to practice nursing safely. Some crimes by their nature do not relate to nursing or there is little potential to associate the crime to the practice of nursing in a manner that would justify a licensure action.

Therefore, Staff believes that when confronted with a positive hit related to minor criminal conduct that meets a criteria similar to "youthful indiscretion" or does not justify application of chapter 53 there should be no impediment to licensure or license renewal. These crimes would not be listed on the Board's Disciplinary Guidelines for Criminal Conduct.

BELOW IS A LIST OF THE SINGLE INCIDENT CRIMINAL BEHAVIOR (CONVICTION/DEFERRED ADJUDICATION) WHICH DOES NOT RESULT IN AN INVESTIGATION OR PROBATIONARY STIPULATIONS ON PETITIONS FOR DECLARATORY ORDER OR APPLICATIONS FOR LICENSURE:

1. One misdemeanor DWI/DUI (not on probation)
2. One misdemeanor offense of possession of marijuana
3. Up to two misdemeanor theft by check
4. One misdemeanor domestic/ family violence
5. One misdemeanor theft over \$20 less than \$250 (normally assoc. with shoplifting)
6. One misdemeanor shop lifting
7. One misdemeanor criminal mischief

8. Misdemeanor graffiti
9. One misdemeanor criminal trespass
10. One misdemeanor disorderly conduct
11. Up to two misdemeanor Public Intoxication
12. Up to two misdemeanor Pan handling
13. Misdemeanor "loud noise" violations
14. One misdemeanor Reckless driving
15. Misdemeanor minor in possession of tobacco
16. One misdemeanor selling alcohol to a minor
17. Failure to appear
18. Vehicular molestation (slashing tires)

These listed crimes are the types of crimes that staff has chosen not to open an investigation on based on the positive hit when the explanation for the conduct had no relation to patient care.