

## FREQUENTLY ASKED QUESTIONS: *How a Criminal History Can Affect the Licensure Process*

Out of the many steps to bring a license application from submission by an applicant to issuance of a license number, the one that most frequently prolongs the process is the criminal background check (CBC). To promote public safety, the Oregon State Board of Nursing runs all license applications, including renewal applications, through a CBC. All 'positive hits' are sent to the Investigations department for further review.



The OSBN strongly encourages all individuals with an arrest, conviction, or discipline history to be fully prepared with information regarding their background prior to making application to the Board.

Although there are several crimes for which the Board will issue a Notice to Deny Licensure, all other issues are handled on a case-by-case basis. In addition to ensuring they have thoroughly read the mandatory disclosure questions prior to answering, there are a few things applicants should know that can help expedite the process.

### **1. What arrests, convictions, or license discipline must be reported on the license application?**

All arrests and convictions (misdemeanors and felonies) must be reported, except for minor traffic violations. "Driving Under the Influence" must be reported. All prior or current disciplinary action against a healthcare-related license must be reported, whether it occurred in Oregon or in another state or territory.

### **2. Is there any specific conviction that will automatically disqualify an applicant from receiving a license?**

According to Oregon Administrative Rule 851-045-0080, the Board will issue a Notice to Deny Licensure to an applicant for initial licensure or re-licensure to persons who have been convicted as an adult, or found responsible for except for mental illness, or adjudicated as a juvenile for the following crimes as set forth in Oregon law or comparable law in other jurisdictions:

- a. Aggravated Murder, as in ORS 163.095 and 115;
  - b. First Degree Manslaughter, as in ORS 163.118;
  - c. Second Degree Manslaughter, as in ORS 163.125;
  - d. First Degree Assault, as in ORS 163.185;
  - e. Second Degree Assault, as in ORS 163.175;
  - f. First Degree Criminal Mistreatment, as in ORS 163.205;
  - g. Second Degree Criminal Mistreatment, as in ORS 163.200;
  - h. First Degree Kidnapping, as in ORS 163.235;
  - i. First Degree Rape, as in ORS 163.375;
  - j. Second Degree Rape, as in ORS 163.365;
  - k. Third Degree Rape, as in ORS 163.355;
  - l. First Degree Sodomy, as in ORS 163.405;
  - m. Second Degree Sodomy, as in ORS 163.395;
  - n. Third Degree Sodomy, as in ORS 163.385;
  - o. First Degree Unlawful Sexual Penetration, as in ORS 163.411;
  - p. Second Degree Unlawful Sexual Penetration, as in ORS 163.408;
  - q. First Degree Sexual Abuse, as in ORS 163.427;
  - r. Second Degree Sexual Abuse, as in ORS 163.425;
  - s. Contributing to the Sexual Delinquency of a Minor, as in ORS 163.435;
  - t. Sexual Misconduct, as in ORS 163.445;
  - u. Child Abandonment, as in ORS 165.535;
- The Board reviews all other criminal histories on a case-by-case basis to determine if an application will be approved or denied.

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### **3. Can a person obtain a license or certificate if they have a misdemeanor or felony conviction on their record?**

Each application is reviewed on its own merit. The OSBN reviews all prior arrests and convictions that may be related substantially to the qualifications, functions, or duties of a nurse or nursing assistant. The OSBN considers the nature, severity, and timing of the offenses, as well as rehabilitation and other factors. The Board cannot make a determination for approval or denial of licensure without evaluating the entire application and supporting documentation.

### **4. Do I have to report charges if I completed a court diversion program and charges were dismissed?**

Yes. Offenses must be reported to the Board even if a court diversion program has been completed, and even if charges were dismissed.

### **5. What type of documentation do I need to submit in support of my application if I have a prior conviction or license discipline?**

In addition to the documents required for licensure, the OSBN will require:

- Official court documents and arrest reports relative to your convictions, showing the dates and circumstances surrounding your arrest /convictions, sections of the law violated, and disposition of the case.
- Copies of documents relative to any disciplinary action taken against any license as an RN or any health-care related license or certificate, if applicable.
- A detailed description of the circumstances surrounding your convictions or disciplinary actions, and a thorough description of the rehabilitative changes in your life-

style since the time of your convictions or disciplinary action that would enable you to avoid future occurrences. It would be helpful to include factors in your life which you feel may have contributed to your convictions or disciplinary action, what you have learned about yourself since that time, and the changes you have made that support your rehabilitation.

- The burden of proof lies with the applicant to demonstrate evidence of rehabilitation. Examples of rehabilitation evidence include, but are not limited to:
  - If applicable to your convictions or license disciplines, documented evidence of professional treatment and counseling you may have completed. Please provide discharge summary and most current chemical dependency and/or mental health evaluation, if available.
  - Letters of reference on official letterhead from employers, nursing instructors, health professionals, professional counselors, parole or probation officers, or other individuals in positions of authority who are knowledgeable about your rehabilitation efforts.
  - Proof of community service work, schooling, and/or self-improvement efforts.
  - Court-issued certificate of rehabilitation, dismissal or evidence of expungement, proof of compliance with criminal probation or parole, and orders of the court.

### **6. Can a person obtain a license or certificate if they have been previously accused of abuse or neglect?**

As stated previously, each application is reviewed on its own merit. If

you have been investigated for either professional or personal allegations of abuse or neglect, a closure letter from the law enforcement or social service agency that conducted the investigation will expedite the review of your application. You should also submit a detailed letter explaining, by your own account, the circumstances surrounding the events.

### **7. How long will it take to review the information that I submit with my application?**

The normal processing time is unpredictable, since there are various factors that affect the time necessary to conduct an appropriate investigation.

### **8. How can I help facilitate how quickly my prior conviction or license discipline is reviewed?**

The OSBN strongly encourages all individuals with an arrest, conviction, or discipline history to be fully prepared with information regarding their background prior to making application to the Board. Otherwise, your request for a license will experience a delay. Enclosing all of your supporting documentation will also assist in expediting the process and review.

### **9. How do I appeal the denial of my application for licensure?**

You have the right to appeal the license denial, and to have an administrative hearing, under the provisions of Oregon administrative laws. You must submit the appeal in writing to the Board office within 60 days from the service of the notice of denial. If you do not submit an appeal in writing to the Board, you will automatically waive your right to a hearing, and your application will be deemed denied.