

VIRGINIA BOARD OF PSYCHOLOGY

Impact of Criminal Convictions, Impairment, and Past History on Licensure, Certification or Registration by the Virginia Board of Psychology

INTRODUCTION

This document provides information for persons interested in becoming a clinical psychologist, school psychologist, applied psychologist, school psychologist-limited, or certified sex offender treatment provider or applying for registration as a resident. It clarifies how convictions, impairment, and other past history may affect the application process and subsequent licensure, certification, or registration by the Board of Psychology.

Until an individual applies for licensure, certification or registration, the Board of Psychology is unable to review, or consider for approval, an individual with a criminal conviction, history of action taken in another jurisdiction, or history of possible impairment. The Board has no jurisdiction until an application has been filed.

GUIDELINES FOR PROCESSING APPLICATIONS FOR LICENSURE, CERTIFICATION OR REGISTRATION: EXAMINATION, ENDORSEMENT, AND REINSTATEMENT

Applicants for licensure or certification by examination, endorsement and reinstatement or for registration as a resident who meet the qualifications as set forth in the law and regulations may be issued a license or certificate or may be registered pursuant to authority delegated to the Executive Director of the Board in accordance with the Board of Psychology Regulations.

An applicant whose license, certificate, or registration has been revoked or suspended in another jurisdiction is not eligible for licensure, certification, or registration in Virginia unless the credential has been reinstated by the jurisdiction which revoked or suspended the credential.

Affirmative responses to any questions on applications related to grounds for the Board to refuse to admit a candidate to an examination, refuse to issue a license, certificate, or registration, or impose sanction shall be referred to the Executive Director to determine how to proceed. The Executive Director, or designee, may approve the application without referral to a board member or a special conference committee in the following cases:

1. The applicant presents a history of chemical dependence with evidence of continued abstinence and recovery. The Executive Director cannot approve applicants for reinstatement if the license, certificate, or registration was revoked or suspended by the Board or if it lapsed while an investigation was pending.
2. The applicant has a history of criminal conviction(s) which does not constitute grounds for denial or Board action or the applicant's criminal conviction history meets the following criteria:

- The applicant's conviction history consists solely of misdemeanor convictions that are greater than 10 years old.
 - The applicant's conviction history consists of one misdemeanor conviction greater than 5 years old and all court requirements have been met.
 - The applicant's conviction history consists of one misdemeanor conviction less than 5 years old, the applicant is in full compliance or has met all court requirements, and the applicant has accepted a pre-hearing consent order to approve the application with a reprimand.
 - The applicant's conviction history consists of one non-violent felony conviction greater than 10 years old and all court/probationary/parole requirements have been met.
3. The applicant's conviction history consists of offenses committed as a juvenile and the applicant has no record of convictions as an adult.

BASIS FOR DENIAL OF LICENSURE, CERTIFICATION, OR REGISTRATION

The Board of Psychology may refuse to admit any candidate to examination or refuse to issue a license, certificate, or registration to any applicant with a conviction of a felony or a misdemeanor involving moral turpitude. The Board may also refuse licensure to an applicant for misuse of drugs or alcohol to the extent that it interferes with professional functioning, or mental, emotional, or physical incompetence to practice the profession. Similarly, the Board may refuse certification or registration as a resident to an applicant for misuse of drugs or alcohol which interferes with professional functioning, or mental or physical illness which interferes with professional functioning.

Misdemeanor convictions involving moral turpitude mean 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; 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 licensed, certified, or registered. However, if the misdemeanor conviction information also suggests a possible violation of 18VAC125-20-160 or 18VAC125-30-110, then there may still be a basis for denial during the application process. An example of such a misdemeanor conviction is one that suggests an impairment issue, such as DUI and illegal drug possession convictions.

Criminal convictions for ANY felony may cause an applicant to be denied licensure, certification, or registration. Each applicant is considered on an individual basis. There are NO criminal convictions or impairments that are an absolute bar to licensure, certification, or registration by the Board of Psychology.

**ADDITIONAL INFORMATION NEEDED REGARDING CRIMINAL CONVICTIONS,
PAST ACTIONS, OR POSSIBLE IMPAIRMENTS**

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 Psychology has the ultimate authority to approve an applicant for testing and subsequent licensure, certification, or registration, 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 (e.g., 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 psychology-related employers, if possible).

The following information will be requested from the applicant with past disciplinary action or licensure, certification, or registration denial in another state:

- A certified copy of the Order for disciplinary action or denial from the other state licensing entity; and certified copy of any subsequent actions (e.g., reinstatement), if applicable;
- A letter from the applicant explaining the factual circumstances leading to the action or denial; and
- Letters from employers concerning work performance (psychology-related preferred) since action.

The following information may be requested from applicants with a possible impairment:

- Evidence of any past treatment (e.g., discharge summary from outpatient treatment and inpatient hospitalizations);
- A letter from the applicant’s current treating healthcare provider(s) indicating diagnosis, treatment regimen, compliance with treatment, and ability to practice safely;
- A letter from the applicant explaining the factual circumstances of condition or impairment and addressing ongoing efforts to function safely (e.g., efforts to remain compliant with treatment, maintain sobriety, attendance at AA/NA meetings); and
- Letters from employers concerning work performance (specifically from psychology-related employers, if possible).

NOTE: Some applicants may be eligible for the Health Practitioner’s Monitoring Program (HPMP), which is a monitoring program for persons with impairments due to chemical dependency, mental illness, or physical disabilities. Willingness to participate in the HPMP is

information the Board of Psychology will consider during the review process for applicants with a history of impairment or a criminal conviction history related to impairment. Information about the Virginia HPMP may be obtained directly from the DHP homepage at www.dhp.virginia.gov.

Once the Board of Psychology 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 Psychology members 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.

NOTE: Failure to reveal criminal convictions, past disciplinary actions, and/or possible impairment issues on any application for licensure, certification, or registration is grounds for disciplinary action by the Board of Psychology, even after the license, certification, or registration has been issued. Such action constitutes procurement of license by fraud or misrepresentation and a basis for disciplinary action that is separate from the underlying conviction, past action, or impairment issue once discovered. *See* 18VAC125-20-160(2). Possible disciplinary actions as a result of such conduct range from reprimand to revocation of a license, certificate, or registration.

FOLLOWING LICENSURE, CERTIFICATION, OR REGISTRATION

Criminal convictions and other actions can also affect an individual already licensed, certified, or registered by the Board of Psychology. Any felony conviction, court adjudication of incompetence, or suspension or revocation of a license, certificate, or registration held in another state will result in a mandatory suspension of the individual's license, certificate, or registration to practice in Virginia under Virginia Code § 54.1-2409. This is a nondiscretionary action taken by the Director of DHP rather than the Board of Psychology. The mandatory suspension remains in effect until the individual applies for reinstatement, appears at a formal hearing before the Board of Psychology, and demonstrates sufficient evidence that he or she is safe and competent to return to practice. At the formal hearing, three fourths of the Board members present must agree to reinstate the individual's license, certificate, or registration to practice in order for it to be restored.

GETTING A CRIMINAL RECORD EXPUNGED

Having been granted a pardon, clemency, or having civil rights restored following a felony conviction does not change the fact that a person has a criminal conviction. That conviction remains on the individual's licensure, certification, or registration record. Therefore, any criminal conviction *must* be revealed on any application for licensure or certification, unless it has been expunged.