

CHAPTER 81

AN ACT concerning criminal history records and professional or occupational boards, and amending and supplementing P.L.1978, c.73.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 8 of P.L.1978, c.73 (C.45:1-21) is amended to read as follows:

C.45:1-21 Refusal to license or renew, grounds.

8. A board may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license:

- a. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;
- b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
- c. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;
- d. Has engaged in repeated acts of negligence, malpractice or incompetence;
- e. Has engaged in professional or occupational misconduct as may be determined by the board;
- f. Has been convicted of, or engaged in acts constituting, any crime or offense that has a direct or substantial relationship to the activity regulated by the board or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety, or welfare, provided that the board shall make this determination in a manner consistent with section 2 of P.L.2021, c.81 (C.45:1-21.5). For the purposes of this subsection a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
- g. Has had his authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;
- h. Has violated or failed to comply with the provisions of any act or regulation administered by the board;
- i. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;
- j. Has repeatedly failed to submit completed applications, or parts of, or documentation submitted in conjunction with, such applications, required to be filed with the Department of Environmental Protection;
- k. Has violated any provision of P.L.1983, c.320 (C.17:33A-1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;
- l. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term "presently" means at this time or any time within the previous 365 days;
- m. Has prescribed or dispensed controlled dangerous substances indiscriminately or without good cause, or where the applicant or holder knew or should have known that the substances were to be used for unauthorized consumption or distribution;

n. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the board, or aided and abetted an unlicensed person or entity in performing such an act;

o. Advertised fraudulently in any manner.

The division is authorized, for purposes of facilitating determinations concerning licensure eligibility, to require the fingerprinting of each applicant in accordance with applicable State and federal laws, rules and regulations. Each applicant shall submit the applicant's name, address, and written consent to the director for a criminal history record background check to be performed. The division is authorized to receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation. Upon receipt of such notification, the division shall forward the information to the appropriate board which shall make a determination regarding the issuance of licensure. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check, unless otherwise provided for by an individual enabling act. The Division of State Police shall promptly notify the division in the event an applicant or licensee, who was the subject of a criminal history record background check pursuant to this section, is convicted of a crime or offense in this State after the date the background check was performed.

For purposes of this act:

"Completed application" means the submission of all of the information designated on the checklist, adopted pursuant to section 1 of P.L.1991, c.421 (C.13:1D-101), for the class or category of permit for which application is made.

"Permit" has the same meaning as defined in section 1 of P.L.1991, c.421 (C.13:1D-101).

C.45:1-21.5 Certain disqualifications prohibited.

2. a. Notwithstanding any law, rule or regulation to the contrary, an entity shall not disqualify a person from obtaining or holding any certificate, registration or license issued by an entity solely because the person has been convicted of or engaged in acts constituting any crime or offense, unless the crime or offense has a direct or substantial relationship to the activity regulated by the entity or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety, or welfare. For the purposes of this section, a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction. In making this determination, an entity shall consider the following:

(1) the nature and seriousness of the crime or offense and the passage of time since its commission;

(2) the relationship of the crime or offense to the purposes of regulating the profession or occupation regulated by the entity;

(3) any evidence of rehabilitation of the person in the period of time following the prior conviction that may be made available to the entity; and

(4) the relationship of the crime or offense to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation regulated by the entity.

b. An entity shall not disqualify a person from obtaining or holding a certificate, registration or license issued by the entity because of a person's prior conviction of a crime or offense unless it provides the person with a written notice that the entity has determined that the conviction may disqualify the person, and an explanation for the preliminary determination that the crime or offense has a direct or substantial relationship to the activity

regulated by the entity or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety, or welfare, and affords the person an opportunity to be heard before the entity prior to the entity making a final decision on whether to disqualify the person. The person shall be afforded an opportunity to be heard before the entity no later than 45 days after the entity receives the person's request for a hearing unless the person and the entity mutually agree to an extension. If, after the person is afforded the opportunity to be heard before the entity, the person is disqualified for a certificate, registration or license, the entity shall notify the person, no later than 45 days after the hearing, in writing of the following:

- (1) the grounds and reasons for the denial or disqualification;
- (2) the earliest date the person may reapply for the certificate, registration or license; and
- (3) that additional evidence of rehabilitation may be considered upon reapplication.

c. If a person's prior conviction was for murder, pursuant to N.J.S.2C:11-3 or an equivalent statute of another state or jurisdiction, or any sex offense that would qualify the person for registration pursuant to section 2 of P.L.1994, c.133 (C.2C:7-2) or under an equivalent statute of another state or jurisdiction, there shall be a rebuttable presumption that the crime or offense has a direct or substantial relationship to the activity regulated by the entity or is of such a nature that certification, registration or licensure of the person would be inconsistent with the public's health, safety, or welfare.

d. This section shall apply to any license, certification, or registration issued by any entity designated in section 2 of P.L.1978, c.73 (C.45:1-15), or by any principal department of the Executive Branch of State government or any entity within any department or any other entity hereafter created to license or otherwise regulate a profession or occupation.

e. No certificate, registration or license shall be issued by the Division of Local Government Services in the Department of Community Affairs to an individual who has, within the five years preceding the submission of an application for a certificate, registration or license, been convicted of embezzlement, fraud, crimes involving public corruption, or theft.

C.45:1-21.6 Data concerning disqualifications, report to Legislature.

3. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety, and any entity subject to the requirements of section 2 of P.L.2021, c.81 (C.45:1-21.5), shall obtain data concerning the number of, and reasons for, disqualification by any entity pursuant to section 2 of P.L.2021, c.81 (C.45:1-21.5), and annually submit a report to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), that provides the disqualification data for each entity.

4. This act shall take effect on the 90th day next following enactment, except that the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, and any other entity subject to the requirements of section 2 of P.L.2021, c.81 (C.45:1-21.5), may take any anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved May 11, 2021.