



Board for Waterworks and Wastewater Works Operators and  
Onsite Sewage System Professionals

**Guidance Document: Related to Misdemeanor  
Convictions Pursuant to Board Regulations 18 VAC  
160-20-76. H and 18 VAC 160-20-140 2**

**Adopted January 16, 2014**

**I. Background**

Board regulation 18 VAC 160-20-76 outlines the process to apply for a license under the Board's purview. Subsection H of 18 VAC 160-20-76 of the Board's regulations states:

"Each applicant shall not have been convicted or found guilty, regardless of the manner of adjudication, in any jurisdiction of the United States of any misdemeanor involving lying, cheating, or stealing; of any misdemeanor directly related to the practice of a waterworks operator, a wastewater works operator, an onsite soil evaluator, an onsite sewage system operator, or an onsite sewage system installer; or of any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this subsection. The record of conviction, authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted, shall be admissible as prima facie evidence of such conviction or guilt. Review of prior criminal convictions shall be subject to the provisions of § 54.1-204 of the Code of Virginia."

Board regulation 18 VAC 160-20-140 establishes the Board's authority to deny any application for licensure, interim licensure, or provisional license under the provisions of said chapter. Subsection 2 of 18 VAC 160-20-140 of the Board's regulations states, in part, that one of the grounds for denial of an application is "having been convicted or found guilty by a court in any jurisdiction of any felony or of any misdemeanor involving lying, cheating or stealing; or for activities related to the performance of the licensee's or interim licensee's duties, there being no appeal pending therefrom or the time for appeal having lapsed."

## **II. Issue**

Applicants for licensure who meet all other requirements but have had any misdemeanor conviction related to lying, cheating, or stealing at any time in the past must go through an informal fact-finding conference pursuant to the Administrative Process Act (Chapter 40 of Title 2.2 of the *Code of Virginia*) in order to have their applications considered for licensure, thus delaying the approval of their applications. This would include, but not be limited to, an applicant who had an applicable misdemeanor violation 10, 15, or 20 years ago, and no other convictions since that time.

## **III. Policy**

The Board authorizes staff to approve an application wherein the applicant meets all other requirements for licensure but has a misdemeanor conviction that occurred more than ten (10) years from the date of application, regardless of the nature of the conviction, and has no other subsequent convictions. Such applicant shall *not* be subject to the provisions of §54.1-204 of the Code of Virginia and will be processed administratively by staff.