VIRGINIA BOARD OF SOCIAL WORK

Impact of Criminal Convictions, Impairment, and Past History on Social Work licensure in Virginia

INTRODUCTION

This document provides information for persons interested in becoming a Licensed Social Worker (LSW) or Licensed Clinical Social Worker (LCSW). It clarifies how convictions, impairment, and other past history may affect the application process and subsequent licensure by the Board of Social Work.

Until an individual applies for licensure, the Board of Social Work 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: EXAMINATION, ENDORSEMENT, AND REINSTATEMENT

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

An applicant whose license has been revoked or suspended in another jurisdiction is not eligible for licensure in Virginia unless the credential has been reinstated by the jurisdiction which revoked or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

Affirmative responses to any questions on applications for licensure related to grounds for the Board to refuse to admit a candidate to an examination, refuse to issue a license 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 the Credentials 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 The Executive Director cannot approve applicants for reinstatement if the license was revoked or suspended by the Board or if it lapsed while an investigation was pending.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

The Board of Social Work may refuse to admit a candidate to any examination or refuse to issue a license to any applicant with a conviction of a felony or a misdemeanor involving moral turpitude. Likewise, the Board may refuse licensure to an applicant who is unable to practice social work with reasonable skill and safety to clients by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition (referred to as a history of impairment).

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, welfare 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 a LSW or LCSW. However, if the misdemeanor conviction information also suggests a possible impairment issue, such as DUI and illegal drug possession convictions, then there still may be a basis for denial during the licensure application process.

Criminal convictions for ANY felony may cause an applicant to be denied Social Work licensure. *Each applicant is considered on an individual basis. There are NO criminal convictions or impairments that are an absolute bar to Social Work licensure.*

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

Applications for licensure include questions about the applicant's history, specifically:

1. Any and all criminal convictions ever received;
2. Any past action taken against the applicant in another state or jurisdiction, including denial of licensure or certification in another state or jurisdiction; and
3. Any mental or physical illness, or chemical dependency condition that could interfere with the applicant's ability to practice.

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 Social Work has the ultimate authority to approve an applicant for testing and subsequent licensure, 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 (i.e., 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 Social Work related employers, if possible).

The following information will be requested from the applicant with past disciplinary action or licensure/certification 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 (i.e. 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 (Social Work related preferred) since action.

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

- Evidence of any past treatment (i.e., 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 (including efforts to remain compliant with treatment, maintain sobriety, attendance at AA/NA meetings, etc.); and
- Letters from employers concerning work performance (specifically from Social Work 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 Social Work 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 Social Work 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 Social Work representative(s) 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 is grounds for disciplinary action by the Board of Social Work, even after the license has been issued. It is considered to be "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. Possible disciplinary actions that may be taken range from reprimand to revocation of a license.

FOLLOWING LICENSURE

Criminal convictions and other actions can also affect an individual already licensed as a LSW or LCSW by the Board of Social Work. Any felony conviction, court adjudication of incompetence, or suspension or revocation of a license or certificate held in another state will result in a "mandatory suspension" of the individual's license to practice in Virginia. This is a nondiscretionary action taken by the Director of DHP, rather than the Board of Social Work, according to § 54.1-2409 of the Code of Virginia. The mandatory suspension remains in effect until the individual applies for reinstatement and appears at a formal hearing before the Board of Social Work 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 to practice in order for the license 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 record. Therefore, any criminal conviction *must* be revealed on any application for licensing, unless it has been expunged.

Chapter 23.1 of Title 19.2 of the Code of Virginia describes the process for expunging criminal records. If a person wants a conviction to be removed from their record, the individual must seek expungment pursuant to §19.2-392.2 of the Code of Virginia. Individuals should seek legal counsel to pursue this course, which involves specific petitions to the court, State Police procedures, and hearings in court.