



Board for Asbestos Lead and Home Inspectors

Guidance Document: Review of Applications with Misdemeanor Convictions

**Adopted August 7, 2014
Amended August 16, 2018**

I. Background

The Asbestos Licensing Regulations and the Lead-Based Paint Activities Regulations of the Board for Asbestos, Lead, and Home Inspectors (Board) include the provisions applicable to asbestos and lead abatement licensing in Virginia. The Board may discipline a license or deny an application upon review in accordance with § 54.1-204 and the Administrative Process Act (Title 2.2, Chapter 40 of the Code of Virginia) if the applicant or licensee has been convicted of any felony and/or misdemeanor involving certain offenses.

II. Applicable Regulations

Asbestos Licensing Regulations

18VAC15-20-32. Qualifications for Licensure—Individuals.

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G. Conviction or guilt. The applicant shall not have been convicted or found guilty, regardless of adjudication, in any jurisdiction of any felony or of any misdemeanor involving lying, cheating or stealing or any violation while engaged in environmental remediation activity that resulted in the

significant harm or the imminent and substantial threat of significant harm to human health or the environment, there being no appeal pending therefrom or the time of appeal having lapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The record of conviction, finding or case decision shall be considered prima facie evidence of a conviction or finding of guilt. The board, at its discretion, may deny licensure or certification to any applicant in accordance with § 54.1-204 of the Code of Virginia.

Lead-Based Paint Activities Regulations

18VAC15-30-52. Qualifications for Licensure - Individuals.

J. Conviction or guilt. The applicant shall disclose the following information:

1. A conviction in any jurisdiction of any felony.
2. A conviction in any jurisdiction of any misdemeanor.

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18VAC15-30-810. Grounds for Denial of Application Denial of Renewal, or Discipline

- A. The board shall have the authority to fine any licensee or accredited lead training provider, training manager or principal instructor, and to deny renewal, to suspend, to revoke or to deny application for any license or approval as an accredited lead training program, accredited lead training provider, training manager or principal instructor provided for under Chapter 5 of Title 54.1 of the Code of Virginia for:

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6. Subject to the provisions of § 54.1-204 of the Code of Virginia, having been convicted or found guilty, regardless of adjudication in any jurisdiction of the United States, of any felony or of any misdemeanor involving lying, cheating, or stealing, or of any violation while engaged in environmental remediation activity that resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment, 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 chapter. A certified copy of the final order, decree or case decision by a court or regulatory agency with lawful authority to issue such order, decree

or case decision shall be admissible as prima facie evidence of such conviction or discipline.

Regulation 18VAC15-20-450 of the Asbestos Licensing Regulations and 18VAC15-30-810 of the Lead-Based Paint Licensing Regulations include the Board's authority to discipline a licensee or deny a renewal or application for convictions as referenced above.

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 one or more misdemeanor convictions all of which are more than five years old and not related to environmental remediation activities.

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.