

REPORT ON STAFF APPROVAL OF APPLICANTS WITH MINOR CRIMINAL HISTORY:
REVISED FROM JANUARY 2008 BOARD MEETING

This Report is for informational purposes only and may require Board action.

Background:

At the January 2008 Board meeting, Staff presented a report to the Board that listed those crimes (when isolated or singular) that rarely lead to an investigation or probationary order. These single incident or minor crimes have historically had little impact on the ability to practice a profession safely or predict how the nurse might treat vulnerable clients in his or her care must be considered as part of a licensing decision.

Below is the list of the single incident criminal behavior (conviction/deferred adjudication) which rarely results in an investigation or probationary stipulations on petitions for declaratory order or applications for licensure:

1. One misdemeanor DWI/DUI (not on probation)
2. One misdemeanor offense of possession of marijuana
3. Up to two misdemeanor theft by check
4. One misdemeanor domestic/ family violence
5. One misdemeanor theft over \$20 less than \$250 (normally assoc. with shoplifting)
6. One misdemeanor shop lifting
7. One misdemeanor criminal mischief
8. Misdemeanor graffiti
9. One misdemeanor criminal trespass
10. One misdemeanor disorderly conduct
11. Up to two misdemeanor Public Intoxication
12. Up to two misdemeanor Pan handling
13. Misdemeanor "loud noise" violations
14. One misdemeanor Reckless driving
15. Misdemeanor minor in possession of tobacco
16. One misdemeanor selling alcohol to a minor
17. Failure to appear
18. Vehicular molestation (slashing tires)

Board's Response to the Staff's January 2008 report:

After review of this report, Staff was instructed to revisit the propriety of declining (by policy) whether to investigate or take action on these crimes. For example, it was noted by Board members that DUI/DWI crimes and Public Intoxication Crimes, even if isolated, should be examined to determine whether a person is safe to practice given this nature of the criminal behavior and its potential impact on nursing practice. Similarly, isolated crime involving domestic/family violence may justify further scrutiny before a person is licensed without stipulations.

It was noted that even petty theft crimes may need further scrutiny if the victim was in a health care setting.

Staff's Recommendation:

As a result of the discussions, Staff has reviewed its processes and intends to implement the following procedures for single incident criminal behavior. Each positive hit for criminal behavior will not be closed until such time as the applicant/petitioner has provided a copy of the underlying court documents or an explanation as to why the documents are not available. The applicant/petitioner must provide a letter of explanation regarding the criminal charge along with any other material to verify the minor nature of the conduct or the lack of nexus to nursing practice.

Before a matter is closed without further investigation or action, Staff will review the documents, information and explanation. From a cumulative review, the matter will not be closed unless it is established;

1. There appear to be no material omissions or misrepresentations.
2. The incident is isolated or minor
3. No recency of conduct or other evidence of failure to rehabilitate; and
4. No reasonable basis to conclude the behavior will effect applicant's ability to practice nursing safely.

RECOMMENDATION:

MOVE TO APPROVE THE STAFF REVIEW PROCESS FOR MINOR CRIMINAL HISTORY AS OUTLINED ABOVE.