

§ 90-744. Criminal history record checks of applicants for licensure.

(a) All applicants for licensure shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall be responsible for providing to the North Carolina Department of Justice the applicant's fingerprints to be checked, a form signed by the applicant consenting to the criminal history record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice. The Board shall keep all information obtained in accordance with this section confidential.

(b) The cost of the criminal history record check and the fingerprinting shall be paid by the applicant. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check.

(c) If an applicant's criminal history record reveals one or more criminal convictions, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

- (1) The level of seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the individual at the time of conviction.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct of the individual and the job duties of the position to be filled.
- (6) The applicant's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.

(d) If, after reviewing the factors, the Board determines that any of the grounds to deny licensure exist, the Board may deny licensure of the applicant. The Board may disclose to the applicant information contained in the criminal history record that is relevant to the denial if disclosure of the information is permitted by applicable State and federal law. The Board shall not provide a copy of the criminal history to the applicant. The applicant shall have the right to appear before the Board to appeal the Board's decision. An appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(e) The Board, its officers, and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying licensure to an applicant based on information provided in the applicant's criminal history record. (2021-22, s. 1(a).)