

LAWS OF DELAWARE
VOLUME 83
CHAPTER 433
151st GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 404
AS AMENDED BY
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLES 24 AND 29 OF THE DELAWARE CODE RELATING TO PROFESSIONAL LICENSING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. This Act shall be known and may be cited as “The Delaware Fair Chance Licensing Act.”

Section 2. Amend § 8735, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8735. Division of Professional Regulation.

(x) (1) Because professional licensing requirements can be a substantial barrier to those with a criminal history who are attempting to enter and advance in the workforce and a potential limitation on a robust workforce, it is the policy of this State that criminal history records should disqualify applicants for professional licensure under chapters of Title 24 administered by the Division of Professional Regulation only in the limited circumstances set forth in this subsection. The provisions of this subsection (x) apply to all license procedures in Title 24 except those set forth in Chapters 9, 12, 13, 23, 28, 54, and 55.

(2) Conviction of a crime may be grounds for the denial of a license only if the underlying offense is one identified by the licensing board as being substantially related to the practice of the occupation or profession.

(3) A licensing board shall grant a waiver to an applicant with a criminal conviction, unless granting a waiver would create an unreasonable risk to public safety. In making the waiver determination, a licensing board shall make an individualized assessment of the applicant, considering all of the following:

- a. The nature and seriousness of the offense.
- b. The amount of time that has passed since the conviction.
- c. The age of the applicant at the time the offense was committed.
- d. Evidence relevant to the circumstances of the offense, including any aggravating or mitigating circumstances or social conditions surrounding the commission of the crime.
- e. The relationship between public safety, the offense, and the specific tasks and duties for which licensure is required.
- f. Evidence of rehabilitation or treatment undertaken by the applicant since the conviction.

(4) The following criminal history records and dispositions may not be considered by a licensing board or the Division of Professional Regulation and may not be grounds for the initial denial of a license unless an exception is specifically set forth in Title 24 for certain licenses:

a. A criminal charge, indictment, or arrest that is no longer pending and did not lead to a criminal conviction.

b. A criminal conviction that has been pardoned, sealed, or expunged.

c. A juvenile adjudication of delinquency.

d. A criminal conviction where more than 10 years have passed since the date of conviction if there have been no other criminal convictions in the intervening time.

(5) An individual convicted of an offense that has been identified by a licensing board as being substantially related to the practice of an occupation or profession may at any time prior to applying for a license, petition the Division of Professional Regulation, in a form prescribed by the Division, for an official determination as to whether the individual's criminal conviction will prevent the individual from receiving a license. The petition must list each of the specific offenses for which the individual was convicted and may include evidence relevant to each of the factors described in paragraph (x)(3) of this section, including personal references or testimonials.

(6) Before a licensing board makes an official determination that a criminal conviction will prevent an individual from receiving a license under paragraph (x)(5) of this section, the licensing board must provide the individual with written notice containing all of the following:

a. An identification of the conviction that is substantially related to the practice of the occupation or profession.

b. A statement of the reason the individual's conviction was determined to pose an unreasonable risk to public safety.

c. Instructions for the applicant or individual seeking a determination to submit evidence that the licensing board will consider before issuing an official determination.

(7) If a licensing board makes an official determination under paragraph (x)(5) of this section that a criminal conviction will not prevent an individual from receiving a license, the licensing board must inform the individual in writing and this determination will be binding on the licensing board at the time of the individual's licensure application, so long as there has been no substantial change in circumstances. If a licensing board makes an official determination under paragraph (x)(5) of this section that a criminal conviction may prevent an individual from receiving a license, the individual's licensure application may not be denied until after a hearing, conducted pursuant to Chapter 101, of Title 29, at which time the entirety of the application will be considered.

(8) For purposes of this subsection "licensing board" includes a Commission, Council, or any other entity with authority over the licensing procedures in Title 24 that are not specifically excluded under paragraph (x)(1) of this section.

Section 3. Amend Chapter 1, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 107. Requirements and qualifications for a permit to practice as a certified public accountant.

(b) (1) The applicant has not been convicted of a crime that is substantially related to the practice of accountancy; however, if after consideration of the factors set forth under § 8735(x)(3) of Title 29, through a hearing

or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this subsection, if it finds all of the following: documentation, the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board, by an affirmative vote of a majority of the quorum, shall waive this subsection.

(2) Notwithstanding the limitation in § 8735(x)(4)d. of Title 29, the Board may consider convictions for financial sector crimes such as bribery, embezzlement, identity theft, racketeering, money laundering, terrorist financing, fraud (including fraudulent financial reporting) and tax evasion regardless of the time that has passed since conviction.

(1) For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.

(2) For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.

(3) The applicant is capable of practicing accountancy in a competent and professional manner.

(4) The granting of the waiver will not endanger the public health, safety or welfare;

§ 110. Requirements for permits to practice public accountancy.

(c) An applicant for initial issuance of a permit under this section shall show that the applicant: must show all of the following:

(1) Has The applicant has not been convicted of a crime that is substantially related to the practice of accountancy; if however, after consideration of the factors set forth under §8735(x)(3) of Title 29 through a hearing or review of documentation, the Board determines that the granting of a waiver would not create an unreasonable risk to public safety, the Board shall, by an affirmative vote of a majority of the quorum, waive this waive this paragraph (c)(1); accountancy; however, after a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (c)(1) of this section, if it finds all of the following:

a. For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.

b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.

~~e. The applicant is capable of practicing accountancy in a competent and professional manner.~~

~~d. The granting of the waiver will not endanger the public health, safety or welfare;~~

Section 4. Amend Chapter 2, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 206. Qualifications of applicant; report to Attorney General; judicial review.

(c) An applicant ~~shall~~ may not have been convicted of a crime that is substantially related to the practice of landscape architecture; if however, after considering the factors set forth in § 8735(x)(3) of Title 29 through a hearing or review of documentation the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board, by an affirmative vote of a majority of the quorum, shall waive this subsection (c). ~~architecture; however, after a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this subsection, if it finds all of the following:~~

~~(1) For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~(2) For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~(3) The applicant is capable of practicing landscape architecture in a competent and professional manner.~~

~~(4) The granting of the waiver will not endanger the public health, safety, or welfare.~~

Section 5. Amend Chapter 3, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 307. Application procedures.

(c) The Board may refuse or reject an applicant if, after a hearing, the Board finds that the applicant has:

~~(1) Been convicted of committing a crime that is substantially related to the practice of architecture; however, after a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (c)(1), if it finds all of the following:~~ architecture; if however, after considering the factors set forth in § 8735(x)(3) of Title 29 through a hearing or review of documentation the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board shall, by an affirmative vote of a majority of the quorum, waive this paragraph (c)(1);

~~a. For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on~~

~~probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~c. The applicant is capable of practicing architecture in a competent and professional manner.~~

~~d. The granting of the waiver will not endanger the public health, safety or welfare;~~

Section 6. Amend Chapter 5, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 508. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant who is applying for licensure as a podiatrist under this chapter shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(6) ~~Shall~~ Does not have a criminal conviction record, nor pending criminal charge relating to an offense, ~~the circumstances of which~~ offense that is substantially ~~relate~~ related to the practice of podiatry. Applicants who have criminal conviction records or pending criminal charges shall request appropriate authorities to provide information about the record or charge directly to the Board ~~in sufficient specificity to enable the Board to make a determination whether the record or charge is substantially related to the practice of podiatry.~~ Board. After a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(6), if it finds all of the following: If after considering the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board, by an affirmative vote of a majority of the quorum, shall waive this paragraph (a)(6). A waiver may not be granted for a conviction of a felony sexual offense.

~~a. For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~c. The applicant is capable of practicing podiatry in a competent and professional manner.~~

~~d. The granting of the waiver will not endanger the public health, safety or welfare.~~

(8) Notwithstanding the time limitation in § 8735(x)(4) of Title 29, ~~Has~~ has not been convicted of a felony sexual offense.

(9) Has submitted, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

c. An applicant may not be licensed to practice podiatric medicine until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction that is substantially related to the practice of podiatry may not be licensed by the Board unless a waiver is granted pursuant to paragraph (a)(6) of this section.

Section 7. Amend Chapter 7, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 701. Chiropractic defined; limitation of chiropractic license.

(a) As used in this chapter:

(4) "Substantially related" means the nature of criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the practice of chiropractic.

§ 707. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant who is applying for licensure as a doctor of chiropractic under this chapter shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(5) ~~Shall~~ Does not have a criminal conviction record, nor pending criminal charge relating to an offense ~~that is~~ offense, the circumstances of which substantially related to the practice of chiropractic. If however, after considering the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board, by an affirmative vote of a majority of the quorum, shall waive this paragraph (a)(5). Applicants who have criminal conviction records or pending criminal charges shall require appropriate authorities to provide information about the record or charge directly to the ~~Board;~~ Board in sufficient specificity to enable the Board to make a determination whether the record or charge is substantially related to the practice of chiropractic. ~~"Substantially related" means the nature of criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the practice of chiropractic. After a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(5), if it finds all of the following:~~

a. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

b. ~~For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended~~

~~sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~e. The applicant is capable of practicing chiropractic in a competent and professional manner.~~

~~d. The granting of the waiver will not endanger the public health, safety or welfare;~~

(6) Notwithstanding the time limitation set forth in § 8735(x)(4) of Title 29, Has has not been convicted of a felony sexual offense;

(7) Has submitted, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

c. An applicant may not be licensed to practice chiropractic until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction related to the practice of chiropractic may not be licensed by the Board unless a waiver is granted pursuant to paragraph (a)(5) of this section.

§ 711. Grounds for discipline; procedure; sanctions.

(b) Unprofessional conduct is hereby defined as any of the following acts:

(2) Conviction of a crime that is substantially related to the practice of ~~chiropractic~~. ~~“Substantially related” means the nature of criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to chiropractic;~~

Section 8. Amend Chapter 11, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1122. Qualifications of applicant; report to Attorney General; judicial review.

(c) All applicants shall have complied with the following conditions:

(4) ~~Shall~~ Does not have a criminal conviction for a crime substantially related to the practice of dentistry or dental hygiene. ~~After a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, If however, after considering the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (c)(4), if it finds all of the following: the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board shall, by an affirmative vote of a majority of the quorum, waive this paragraph (c)(4). No waiver may be granted for a conviction of a felony sexual offense. A conviction for a felony sexual offense shall be considered, notwithstanding the time limitation set forth in § 8735(x)(4) of Title 29.~~

~~a. For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended~~

~~sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~c. The applicant is capable of practicing dentistry or dental hygiene in a competent and professional manner.~~

~~d. The granting of the waiver will not endanger the public health, safety or welfare.~~

~~e. The applicant has not been convicted of a felony sexual offense.~~

(6) Submit, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

c. An applicant may not be certified to practice dentistry or dental hygiene until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction related to the practice of dentistry or dental hygiene may not be certified by the Board unless a waiver is granted pursuant to paragraphs (c)(4)a., b. and c. paragraph (c)(4) of this section; section.

Section 9. Amend Chapter 14, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1408. Qualifications of applicant [For application of this section, see 81 Del. Laws, c. 290, § 5].

(a) An applicant, who is applying for licensure as an electrician under this chapter, shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(11) Does not have a criminal conviction record, relating to an offense, the circumstances of which substantially relate record for an offense substantially related to providing electrical services. Applicants who have criminal conviction records shall request appropriate authorities to provide information about the record directly to the Board in sufficient specificity to enable the Board to make a determination whether the charge is substantially related to providing electrical services. Board. In determining whether a crime is substantially related to the professions regulated by this chapter, the Board may not consider a conviction where more than 10 years have elapsed since the date of the conviction, if there have been no other criminal convictions in the intervening time. After a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, or, during the time between meetings, the Board President or the President's designee, may waive this paragraph (a)(11), if it finds all of the following: If however, after considering the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board, by an affirmative vote of a majority of the quorum, or during the time between meetings, the Board President or the President's designee, shall waive this paragraph (a)(11). No waiver may be granted for a conviction of a felony sexual offense.

a. For waiver of a felony conviction, where the crime was committed against a person, more than 3 years have elapsed since the date of the conviction and, for all other felonies, more than 2 years have elapsed since the date of conviction. At the time of the application the applicant may not be incarcerated,

~~on work release, or on probation or parole at Level III supervision or higher and must be in substantial compliance with all court orders pertaining to fines, restitution, and community service.~~

~~b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, or on probation or parole at Level III supervision or higher and must be in substantial compliance with all court orders pertaining to fines, restitution, and community service.~~

~~c. The applicant is capable of practicing electrical services in a competent and professional manner.~~

~~d. The granting of the waiver will not endanger the public health, safety, or welfare.~~

(13) Notwithstanding the time limitation set forth in § 8735(x)(4) of Title 29, Has ~~has~~ not been convicted of a felony sexual offense.

Section 10. Amend Chapter 16, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1617. Grounds for refusal to issue a license; suspension; revocation.

(a) The Commission shall refuse to issue a license to any applicant, and shall revoke any license for the operation of an adult entertainment establishment or adult-oriented retail establishment, for any of the following reasons:

(3) A conviction ~~of the licensee for any of the following offenses, including conspiracy to commit any of the following offenses:~~ for any of the following offenses, which are deemed to be substantially related to the operation of adult bookstores and adult entertainment establishments: ~~Lewdness, lewdness,~~ tax evasion, obscenity, prostitution, promoting prostitution, sexual assault, sexual misconduct, indecent exposure, incest, rape or sodomy, in this State or any other state or jurisdiction;

(4) A conviction of any director, officer, principal stockholder, manager, procurer, employee or independent contractor of the licensee or of a partner associated with the licensee for any of the following offenses, including conspiracy to commit any of the following ~~offenses:~~ offenses, which are deemed substantially related to the operation of adult bookstores and adult entertainment establishments: ~~Lewdness, lewdness,~~ tax evasion, obscenity, prostitution, promoting prostitution, sexual assault, sexual misconduct, indecent exposure, incest, rape or sodomy, in this State or any other state or jurisdiction, occurring on the licensed premises; or

(5) A conviction of any director, officer, principal stockholder, manager, procurer, employee or independent contractor of the licensee, or of a partner associated with the licensee, for any of the following offenses, including conspiracy to commit any of the following ~~offenses:~~ offenses, which are deemed substantially related to the operation of adult bookstores and adult entertainment establishments: ~~Lewdness, lewdness,~~ tax evasion, obscenity, prostitution, promoting prostitution, sexual assault, sexual misconduct, indecent exposure, incest, rape or sodomy, in this State or any other jurisdiction, not occurring on licensed premises, where said director, officer, principal stockholder, manager, procurer, employee or independent

contractor, at the time of the conduct constituting the offense, was off the premises at the request or direction or pursuant to the authority of the licensee for the purpose of furthering the business of the licensee.

(d) A waiver shall be granted, after application in a form prescribed by the Commission, of paragraphs (a)(3), (4), and (5) of this section if, after consideration of the factors set forth in § 8735(x)(3) of Title 29, the Commission determines that granting a waiver would not create an unreasonable risk to public safety.

Section 11. Amend Chapter 17, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1720. Certification requirements to practice medicine.

(b) To receive a certificate to practice medicine in this State, an applicant for a certificate must:

(4) Submit to the Board a sworn or affirmed statement that the applicant:

a. Has not been convicted of or has not admitted under oath to having committed a crime substantially related to the practice of ~~medicine~~; medicine, provided however, that a waiver may be available pursuant to subsection (e) of this section;

b. Has not been professionally penalized for or convicted of drug addiction;

(6) Submit, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

c. An applicant may not be certified to practice medicine until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction for an offense that is substantially related to the practice of medicine, may not be certified by the Board unless a waiver is granted pursuant to subsection (e) of this section. The State Bureau of Identification may release any subsequent criminal history to the Board.

(e) The Board, by the affirmative vote of 9 of its members, may waive any of the requirements of this section if it finds all of the following by clear and convincing evidence:

(1) The applicant's education, training, qualifications, and conduct have been sufficient to overcome the deficiency or deficiencies in meeting the requirements of this section;

(2) The applicant is capable of practicing medicine in a competent and professional manner;

(3) The granting of the waiver will not endanger the public health, safety, or welfare;

(4) For waiver of a felony criminal conviction other than a conviction of a felony sexual ~~offense~~, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service, although waiver shall offense, the Board shall grant a waiver if it determines, after consideration of the factors set forth in § 8735(x)(3) of Title 29, that granting a waiver would not create an unreasonable risk to public safety. A waiver may not be granted to any person who is convicted of a felony sexual offense; and offense. The time limitation set forth in § 8735(x)(4) of Title 29 does not apply to a felony sexual offense.

~~(5) For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

§ 1777. Licensure.

(a) The requirements for licensure by the Board as a respiratory care practitioner are:

(5) The applicant may not have been convicted of or may not have admitted under oath to having committed a crime substantially related to the practice of respiratory care. “Substantially related” means that the nature of the criminal conduct for which the person was convicted or to which the person admitted under oath has a direct bearing on the person’s fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the practice of respiratory care. The Board shall promulgate regulations specifically identifying the crimes which are substantially related to the practice of respiratory care;

(6) The applicant may not have a criminal conviction record or a pending criminal charge ~~relating to an offense, the circumstances of which substantially relate~~ for a crime that is substantially related to or affect the practice of respiratory care. An applicant who has a criminal conviction record or a pending criminal charge must arrange for information about the record or charge to be provided directly to the Board by the appropriate ~~authorities in sufficient specificity to enable the Board to make a determination of whether the record or charge is substantially related to or affects the practice of respiratory care.~~ authorities.

(b) Waiver of requirements. — The Respiratory Care Advisory Council, by the affirmative vote of 5 of its members and with the approval of the Board within 30 days of the vote, may waive any of the requirements of subsection (a) of this section if ~~its~~ it finds all of the following by clear and convincing evidence:

(1) The applicant’s education, training, qualifications, and conduct have been sufficient to overcome the deficiency or deficiencies in meeting the requirements of this section;

(2) The applicant is capable of practicing respiratory care in a competent and professional manner;

(3) The granting of the waiver will not endanger the public health, safety, or welfare;

(4) For waiver of a ~~felony conviction, more than 5 years have elapsed since the date of the conviction.~~ At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service; and if, after consideration of the factors set forth in § 8735(x)(3) of Title 29, the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board shall grant a waiver of paragraphs (a)(5) and (6) of this section.

~~(5) For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~ [Repealed.]

§ 1798. Licensure.

(a) All applicants must meet the following requirements for licensure by the Board as an acupuncture and eastern medicine practitioner:

(6) The applicant may not have been convicted of or may not have admitted under oath to having committed a crime substantially related to the practice of acupuncture. "Substantially related" means that the nature of the criminal conduct for which the person was convicted or to which the person admitted under oath has a direct bearing on the person's fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the practice of acupuncture. The Board shall promulgate regulations specifically identifying the crimes which are substantially related to the practice of acupuncture;

(b) All applicants must meet the following requirements for licensure by the Board as an acupuncture practitioner:

(6) The applicant may not have been convicted of or may not have admitted under oath to having committed a crime substantially related to the practice of acupuncture. "Substantially related" means that the nature of the criminal conduct for which the person was convicted or to which the person admitted under oath has a direct bearing on the person's fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the practice of acupuncture. The Board shall promulgate regulations specifically identifying the crimes which are substantially related to the practice of acupuncture;

(c) Waiver of requirements. — The Acupuncture Advisory Council, by the affirmative vote of 3 of its members and with the approval of the Board within a reasonable period of time from the vote, may waive any of the requirements of subsection (a) of this section if it finds all of the following by clear and convincing evidence:

(1) The applicant's education, training, qualifications and conduct have been sufficient to overcome the deficiency or deficiencies in meeting the requirements of this section;

(2) The applicant is capable of practicing acupuncture in a competent and professional manner;

(3) The granting of the waiver will not endanger the public health, safety, or welfare;

(4) For waiver of a ~~felony conviction, more than 5 years have elapsed since the date of the conviction.~~ At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service; and if, after consideration of the factors set forth in § 8735(x)(3) of Title 29, the Council determines that granting a waiver would not create an unreasonable risk to public safety, the Council shall waive paragraph (a)(6) and (b)(6) of this section.

(5) ~~For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~ [Repealed.]

§ 1799J. Licensure.

(b) The Board may refuse or reject an applicant, if after hearing, the Board finds that:

(2) The applicant has been convicted of a crime substantially related to the practice of genetic counseling as determined by the Board of Medical Licensure and Discipline in its rules and regulations.

(c) Waiver of requirements. — The Council, by the affirmative vote of 3 of its members and with the approval of the Board within a reasonable period of time from the vote, may waive any of the requirements of subsection (b) of this section if it finds all of the following by clear and convincing evidence:

(1) The applicant's education, training, qualifications and conduct have been sufficient to overcome the deficiency or deficiencies in meeting the requirements of this section;

(2) The applicant is capable of practicing as a genetic counselor in a competent and professional manner;

(3) The granting of the waiver will not endanger the public health, safety, or welfare;

(4) For waiver of a ~~felony conviction, more than 5 years have elapsed since the date of the conviction.~~ At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service; and if, after consideration of the factors set forth in § 8735(x)(3) of Title 29, the Council determines that granting a waiver would not create an unreasonable risk to public safety, the Council shall waive paragraph (b)(2) of this section.

(5) For waiver of a ~~misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~ [Repealed.]

§ 1799X. Licensure.

(f) The Board may refuse or reject an applicant, if after hearing, the Board finds that:

(2) The applicant has been convicted of a crime substantially related to the practice of polysomnography as determined by the Board in its rules and regulations.

(g) Waiver of requirements. — The Council, by the affirmative vote of 3 of its members and with the approval of the Board within a reasonable period of time from the vote, ~~may waive the requirements of paragraph (f)(2) of this section if it finds all of the following by clear and convincing evidence:~~ shall waive the requirements of paragraph (f)(2) of this section if it finds, after consideration of the factors set forth in § 8735(x)(3) of Title 29, that a waiver would not create an unreasonable risk to public safety.

(1) The applicant's education, training, qualifications and conduct have been sufficient to overcome the deficiency or deficiencies in meeting the requirements of this section;

(2) The applicant is capable of practicing as a polysomnographer in a competent and professional manner;

(3) The granting of the waiver will not endanger the public health, safety, or welfare; and

(4) For waiver of a ~~felony conviction, more than 5 years have elapsed since the date of the conviction.~~ At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or

~~serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service;~~

~~(5) For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

§ 1799II. Licensure.

(a) To be eligible for licensure by the Board as a certified professional midwife, an applicant shall:

~~(4) Shall not have been convicted of or may not have admitted under oath to having committed a crime substantially related to the practice of midwifery or any felony or violent misdemeanor or crime involving dishonesty; midwifery.~~

~~(7) Shall not have been convicted~~ Notwithstanding the time limitation set forth in § 8735(x)(4) of Title 29, may not have a conviction of a felony sexual offense; and

(b) To be eligible for licensure by the Board as a certified midwife, an applicant shall:

~~(4) Shall not~~ Not have been convicted of or shall not have admitted under oath to having committed a crime substantially related to the practice of midwifery or any felony or violent misdemeanor or crime involving dishonesty; midwifery.

~~(7) Shall not have been convicted~~ Notwithstanding the time limitation set forth in § 8735(x)(4) of Title 29, may not have a conviction of a felony sexual offense; and

(c) The Council may waive the requirements of paragraphs (a)(3), (a)(4), (b)(3), and (b)(4) of this section if its finds all of the following by clear and convincing evidence:

(1) The applicant's education, training, qualifications, and conduct have been sufficient to overcome the deficiency or deficiencies in meeting the requirements of this section;

(2) The applicant is capable of practicing midwifery in a competent and professional manner;

(3) The granting of the waiver will not endanger the public health, safety, or welfare;

(4) ~~For waiver of a misdemeanor conviction or violation, and for waiver of a felony for the practice of unlicensed midwifery after June 30, 2016, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service. if, after consideration of the factors set forth in § 8735(x)(3) of Title 29, the Council determines that granting a waiver would not create an unreasonable risk to public safety, the Coucil shall grant a waiver.~~

~~(5) For waiver of any other felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service; and [Repealed.]~~

(f) An applicant for licensure to practice midwifery shall submit a certified criminal background check pursuant to § 1720(b)(6) of this title. An applicant may not be certified until the applicant's criminal history reports have been produced. An applicant whose record shows a ~~disqualifying~~ prior criminal conviction that is substantially related to the practice of midwifery pursuant to paragraphs (a)(4) or (7) of this section or paragraphs (b)(4) or (7) of this section may not be certified by the Board unless a waiver is granted pursuant to subsection (c) of this section. The State Bureau of Identification may release any subsequent criminal history to the Board and Council.

Section 12. Amend Chapter 18, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1808. Qualifications of applicant.

(a) An applicant for licensure as a master plumber shall submit evidence, satisfactory to the Board, and verified by oath or affirmation, that the applicant:

(5) Does not have any disciplinary proceedings or unresolved complaints pending against the applicant in any jurisdiction where the applicant has previously been or is currently authorized to provide plumbing services; or have a criminal conviction record ~~relating to an incident, the circumstances of which substantially relate~~ for a crime that is substantially related to providing plumbing services. ~~An applicant who has such a criminal conviction record must request appropriate authorities provide information about the record directly to the Board in sufficient specificity to enable the Board to make a determination of whether the record is substantially related to providing plumbing services. In determining whether a crime is substantially related to the professions regulated by this chapter, the Board may not consider a conviction where more than 10 years have elapsed since the date of the conviction, if there have been no other criminal convictions in the intervening time. After a hearing or review of documentation that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, or during the time between meetings, the Board President or the President's designee, may waive this paragraph (a)(5) herein if it finds all of the following:~~ shall waive this paragraph (a)(5) as it applies to a criminal conviction if it finds after consideration of the factors set forth in § 8735(x)(3) of Title 29 that the granting such a waiver does not create an unreasonable risk to public safety.

a. ~~For waiver of a felony conviction, where the crime was committed against a person, more than 3 years have passed since the date of the conviction and for all other felonies, more than 2 years have elapsed since the date of conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, or on parole at Level III Supervision or higher, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

b. ~~For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~e. The applicant is capable of practicing plumbing services in a competent and professional manner.~~

~~d. The granting of the waiver will not endanger the public health, safety or welfare.~~

~~(6) Has not been convicted of Notwithstanding the time limitation set forth in § 8735(x)(4) of Title 29, does not have a conviction of a felony sexual offense.~~

§ 1814. Grounds for discipline or other remediation.

(a) An individual licensed under this chapter is subject to disciplinary sanctions set forth in § 1815 of this title or other appropriate remediation, if, after a hearing, the Board finds that the licensee has:

(3) Been convicted of an offense, the circumstances of which substantially relate offense that is substantially related to providing plumbing services. A copy of the record of conviction certified by the clerk of the court entering the conviction is conclusive evidence of conviction;

§ 1821. Qualifications of applicant — Heating, ventilation, air conditioning, and refrigeration.

(a) An applicant for licensure as a master HVACR licensee, or master HVACR restricted licensee, must submit evidence, satisfactory to the Board and verified by oath or affirmation, that the applicant:

(7) Does not have a criminal conviction record relating to an incident, the circumstances of which substantially relate for a crime that is substantially related to providing HVACR or HVACR restricted services. ~~An applicant who has such a criminal conviction record must request appropriate authorities provide information about the record directly to the Board in sufficient specificity to enable the Board to make a determination of whether the record is substantially related to providing HVACR or HVACR services. In determining whether a crime is substantially related to the professions regulated by this chapter, the Board may not consider a conviction where more than 10 years have elapsed since the date of the conviction, if there have been no other criminal convictions in the intervening time. After a hearing or review of documentation that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, or during the time between meetings, the Board President or the President's designee, may waive this paragraph (a)(7) herein if it finds all of the following: designee, shall waive this paragraph (a)(7) if, after consideration of the factors set forth in § 8735(x)(3) of Title 29, the Board, Board President, or the Board President's designee determines that the granting of a waiver would not create an unreasonable risk to public safety.~~

~~a. For waiver of a felony conviction, where the crime was committed against a person, more than 3 years have passed since the date of the conviction and for all other felonies, more than 2 years have elapsed since the date of conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, or on parole at Level III Supervision or higher, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended~~

~~sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~e. The applicant is capable of practicing plumbing services in a competent and professional manner.~~

~~d. The granting of the waiver will not endanger the public health, safety or welfare.~~

(8) Has Notwithstanding the time limitation set forth in § 8735(x)(4), has not been convicted of a felony sexual offense.

§ 1827. Grounds for discipline or other remediation.

(a) An individual licensed under this chapter is subject to disciplinary sanctions set forth in § 1828 of this title or other appropriate remediation, if, after a hearing, the Board finds that the licensee has:

(3) Been convicted of an offense, ~~the circumstances of which substantially relate~~ offense that is substantially related to providing HVACR or HVACR restricted services. A copy of the record of conviction certified by the clerk of the court entering the conviction is conclusive evidence of conviction;

Section 13. Amend Chapter 19, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1910. Qualifications for registered nurse.

An applicant for a license to practice as a registered nurse shall submit to the Board written evidence, verified by oath, that the applicant:

(5) Has committed no acts which are grounds for disciplinary action as set forth in § 1922(a) of this title; however, if after consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum may waive § 1922(a)(2) of this title if it finds all of the following: the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board by an affirmative vote of a majority of the quorum, shall waive § 1922(a)(2) of this title. A waiver may not be granted for a conviction of a felony sexual offense;

~~a. For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution, and community service.~~

~~b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution, and community service.~~

~~c. The applicant is capable of practicing nursing in a competent and professional manner.~~

~~d. The granting of a waiver will not endanger the public health, safety, or welfare.~~

~~e. The applicant has not been convicted of a felony sexual offense;~~

§ 1914. Qualifications for licensed practical nurse.

An applicant for a license to practice as a licensed practical nurse shall submit to the Board written evidence, verified by oath, that such applicant:

(5) Has committed no acts which are grounds for disciplinary action as set forth in § 1922(a) of this title; however, ~~after a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum may waive § 1922(a) of this title if it finds all of the following:~~ after a hearing or review of documentation, the Board, by an affirmative vote of a majority of the quorum, shall waive § 1922(a)(2) of this title if, after considering the factors set forth in § 8735(x)(3) of Title 29, that the granting of a waiver would not create an unreasonable risk to public safety. A waiver may not be granted for a conviction of a felony sexual offense and a felony sexual offense shall be considered by the Board notwithstanding the time limitation set forth in § 8735(x)(4) of Title 29.

a. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution, and community service.~~

b. ~~For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution, and community service.~~

c. ~~The applicant is capable of practicing nursing in a competent and professional manner.~~

d. ~~The granting of a waiver will not endanger the public health, safety, or welfare.~~

e. ~~The applicant has not been convicted of a felony sexual offense;~~

Section 14. Amend Chapter 20, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2008. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant who is applying for licensure as an occupational therapist or occupational therapy assistant under this chapter shall submit evidence, verified by oath and satisfactory to the Board, that the applicant meets all of the following qualifications:

(6) Does not have a criminal conviction record or pending criminal charge relating to an ~~offense, the circumstances of which substantially relate~~ offense that is substantially related to the practice of occupational therapy. Applicants who have criminal conviction records or pending criminal charges for an offense that is substantially related to the practice of occupational therapy that is not excluded from consideration under § 8735(x)(4) of Title 29 shall request that the appropriate authorities provide information about the record or charge directly to the ~~Board in sufficient specificity to enable the Board to make a determination whether the record or charge is substantially related to the practice of occupational therapy.~~ Board. The Board ~~may~~ shall waive this paragraph (a)(6) if, after a hearing or review of ~~documentation demonstrating that the applicant~~

meets the specified criteria for a waiver, documentation and consideration of the factors set forth under § 8735(x)(3) of Title 29, the Board, by an affirmative vote of a quorum, it finds ~~all of the following: that granting a waiver would create an unreasonable risk to public safety.~~

a. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence, and must be in substantial compliance with all court orders pertaining to fines, restitution, and community service.~~

b. ~~For waiver of a misdemeanor conviction or violation, at the time of the application the applicant must not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence, and must be in substantial compliance with all court orders pertaining to fines, restitution, and community service.~~

c. ~~The applicant is capable of practicing occupational therapy in a competent and professional manner.~~

d. ~~Granting the waiver will not endanger the public health, safety, or welfare.~~

(7) ~~Has Notwithstanding the time limitation set forth in § 8735(x)(4) of Title 29, has not been convicted of a felony sexual offense.~~

(8) a. Has submitted, at the applicant's expense, fingerprints and other necessary information in order to obtain all of the following:

b. An applicant may not be licensed to practice occupational therapy until the applicant's criminal history reports have been produced. The Board may not license an applicant whose record shows a prior criminal conviction for an offense that is substantially related to the practice of occupational therapy unless a waiver is granted under paragraph (a)(6) of this section.

Section 15. Amend Chapter 21, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2107. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant who is applying for licensure as an optometrist under this chapter shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(6) ~~Has Notwithstanding the time limitation set forth in § 8735(x)(4) of Title 29, has not been convicted of a felony sexual offense.~~

(7) Has submitted, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

c. An applicant may not be licensed as an optometrist until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction that is substantially related to the practice of optometry may not be licensed by the Board unless a waiver is granted pursuant to § 2113(a)(8) of this title.

§ 2113. Grounds for refusal, revocation or suspension of licenses.

(a) A practitioner licensed under this chapter shall be subject to disciplinary actions set forth in § 2115 of this title if, after a hearing, the Board finds that the optometrist has:

(8) Been convicted of a crime that is substantially related to the practice of optometry. “Substantially related” means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the practice of optometry. A copy of the record of conviction certified by the clerk of the court entering the conviction shall be conclusive evidence therefor; however, after a hearing or review of ~~documentation demonstrating that the applicant meets the specified criteria for a waiver;~~ documentation and consideration of the factors set forth in § 8735(x)(3) of Title 29, the Board, by an affirmative vote of a majority of the quorum, ~~may waive this paragraph (a)(8), if it finds all of the following:~~ shall waive this paragraph (a)(8) if it finds that granting a waiver would not create an unreasonable risk to public safety;

a. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

b. ~~For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

c. ~~The applicant is capable of practicing optometry in a competent and professional manner.~~

d. ~~The granting of the waiver will not endanger the public health, safety or welfare;~~

Section 16. Amend Chapter 25, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2508. Qualifications of applicant; judicial review; report to Attorney General.

(c) The Board shall determine whether an applicant whose conduct or status is described in 1 or more of the following paragraphs of this subsection is qualified to engage in the practice of pharmacy. In making this determination, the Board shall consider whether the applicant’s conduct is or is not related to the practice of pharmacy and whether licensure of the applicant will or will not present a risk to public health, safety, or ~~welfare.~~ welfare, and shall conduct its analysis of criminal history records consistent with the provisions of § 8735(x) of Title 29.

(3) The applicant has a criminal conviction record or a pending criminal charge related to ~~an incident, the circumstances of which substantially relate~~ a crime that is substantially related to the practice of pharmacy. However, after a hearing or review of ~~documentation demonstrating that the applicant meets the specified criteria for a waiver;~~ documentation and consideration of the factors set forth in § 8735(x)(3) of Title 29, the Board by an affirmative vote of a majority of the quorum, ~~may~~ shall waive this paragraph (c)(3) of this section, if it finds ~~all of the following:~~ that granting a waiver would not create an unreasonable risk to public safety.

a. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

b. ~~For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

c. ~~The applicant is capable of practicing pharmacy in a competent and professional manner.~~

d. ~~The granting of the waiver will not endanger the public health, safety or welfare.~~

Section 17. Amend Chapter 26, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2606. Qualifications of applicant; foreign-trained applicants; report to Attorney General; judicial review.

(a) An applicant who is applying for licensure under this chapter shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(6) ~~Shall~~ Does not have a criminal conviction record, nor pending criminal charge relating to an offense, ~~the circumstances of which substantially relate~~ offense that is substantially related to the practice of physical therapy or athletic training. Applicants who have criminal conviction records or pending criminal charges for an offense that is substantially related to the practice of physical therapy or athletic training and is not excluded from consideration under § 8735(x)(4) of Title 29 shall require appropriate authorities to provide information about the record or charge directly to the Board ~~in sufficient specificity to enable the Board to make a determination whether the record or charge is substantially related to the practice of physical therapy or athletic training.~~ Board. However, after a hearing or review of documentation and a consideration of the factors set forth in § 8735(x)(3) of Title 29, demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may ~~shall~~ waive this paragraph (a)(6), if it finds ~~all of the following: that a wavier would not create an unreasonable risk to public safety; and~~

a. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

b. ~~For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

c. ~~The applicant is capable of practicing physical therapy and athletic training in a competent and professional manner.~~

~~d. The granting of the waiver will not endanger the public health, safety or welfare.~~

(7) Shall Notwithstanding the time limitation set forth in §8735(x)(4) of Title 29, may not have been convicted of a felony sexual offense; and

(8) Submit, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

c. An applicant may not be certified to physical therapy or athletic training until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction for a crime that is substantially related to the practice of physical therapy or athletic training may not be certified by the Board unless a waiver is granted pursuant to paragraph (a)(6) of this section;

(9) Shall have no disciplinary proceedings or unresolved complaints pending against that person in any jurisdiction where the applicant previously has been or currently is licensed to practice physical therapy or athletic training; and

(10) ~~Has not been convicted of a felony sexual offense; and~~ [Repealed.]

(11) ~~Has submitted, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:~~

~~a. A report of the applicant's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Central Repository contains no such information relating to the person.~~

~~b. A report of the applicant's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State Bureau of Identification shall be the intermediary for purposes of this section and the Board shall be the screening point for the receipt of said federal criminal history records.~~ [Repealed.]

~~(f) An applicant may not be licensed until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction may not be licensed by the Board unless a waiver is granted pursuant to paragraph (a)(6) of this section.~~

§ 2610. Reciprocity.

(d) An applicant may not be licensed until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction for a crime that is substantially related to the practice of physical therapy or athletic training may not be licensed by the Board unless a waiver is granted pursuant to § 2606(a)(6) of this title.

Section 18. Amend Chapter 27, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2708. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant who is applying for licensure under this chapter shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(6) Shall Does not have a criminal conviction record, nor pending criminal charge ~~relating to an offense the circumstances of which substantially relate for an offense that is substantially related~~ to the practice of land surveying. Applicants who have criminal conviction records or pending criminal charges that are not excluded from consideration under § 4735(x)(4) of Title 29 shall request appropriate authorities to provide information about the record or charge directly to the Board ~~in sufficient specificity to enable the Board to make a determination whether the record or charge is substantially related to the practice of land surveying.~~ Board. However, after a hearing or review of documentation ~~demonstrating that the applicant meets the specified criteria for a waiver, and consideration of the factors set forth in § 8735(x)(3) of Title 29,~~ the Board, by an affirmative vote of a majority of the quorum, may shall waive this paragraph (a)(6) of this section, if it finds all of the following: that granting the waiver will not create an unreasonable risk to public safety.

a. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

b. ~~For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

c. ~~The applicant is capable of practicing professional land surveying in a competent and professional manner.~~

d. ~~The granting of the waiver will not endanger the public health, safety or welfare.~~

Section 19. Amend Chapter 29, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2907. Qualifications of applicant; application; examination; report to Attorney General; judicial review.

(a) All applicants shall meet the following conditions:

(4) Shall May not have a criminal conviction record, nor pending criminal charge relating to an offense ~~the circumstances of which are that is~~ substantially related to the practice of providing real estate services. ~~In addition, shall not have been convicted of fraud.~~ Applicants who have criminal conviction records or pending criminal charges shall request appropriate authorities to provide information about the conviction or charge directly to the Commission ~~in sufficient specificity to enable the Commission to make a determination whether the conviction or charge is substantially related to the applicant's area of practice.~~ Commission. However, if after consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Commission, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(4), if it finds all of the following: documentation the Commission determines that granting a waiver would not create an unreasonable risk to

public safety, the Commission, by an affirmative vote of a majority of the quorum, shall waive this paragraph (a)(4).

~~a. For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~c. The applicant is capable of providing real estate services in a competent and professional manner.~~

~~d. The granting of the waiver will not endanger the public health, safety or welfare.~~

Section 20. Amend Chapter 30, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3002. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them under this section, except where the context clearly indicates a different meaning:

(7) “Substantially related” means the nature of the criminal conduct, for which a person was convicted, has a direct bearing on the fitness or ability of the person to perform 1 or more of the duties or responsibilities of a licensed ~~mental health or chemical dependency professional.~~ health, chemical dependency, marriage and family therapy, or art therapy professional.

§ 3032. Qualifications of applicant.

(a) An applicant who is applying for licensure under this subchapter shall complete a Board approved application, submit the application fee, and supply evidence verified by oath and satisfactory to the Board that the applicant:

(6) ~~Shall~~ Does not have a criminal conviction nor pending criminal charge relating to an ~~offense, the circumstances of which substantially relate to actions as offense that is substantially related to the practice a~~ licensed professional counselor of mental health or associate counselor of mental health. of mental health counseling. Applicants who have a criminal conviction or pending criminal charge shall request appropriate authorities to provide information about the conviction or charge directly to the ~~Board in sufficient specificity to enable the Board to make a determination whether the conviction or charge is substantially related to actions as a licensed professional counselor of mental health or associate counselor of mental health.~~ Board. However, if after consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a) (6), if it finds all of the following:

the Board determines that the granting of a waiver would not create an unreasonable risk to public safety, the Board, by an affirmative vote of a majority of the quorum, shall waive this paragraph (a)(6). No waiver may be granted for a conviction of a felony sexual offense.

~~a. For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~c. The applicant is capable of practicing licensed professional counselor of mental health or associate counselor of mental health in a competent and professional manner.~~

~~d. The granting of the waiver will not endanger the public health, safety or welfare.~~

~~e. The applicant has not been convicted of a felony sexual offense.~~

(8) Has Notwithstanding the time limitation set forth in § 8735(x)(4) of Title 29, has not been convicted of a felony sexual offense.

(9) Has submitted, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

a. A report of the applicant's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Central Repository contains no such information relating to that person.

b. A report of the applicant's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State Bureau of Identification shall be the intermediary for purposes of this section and the Board of Mental Health and Chemical Dependency Professionals shall be the screening point for the receipt of said federal criminal history records.

An applicant may not be licensed as a licensed professional counselor of mental health until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction for an offense that is substantially related to the practice of mental health counseling may not be certified by the Board unless a waiver is granted pursuant to paragraph (a)(6) of this section. The State Bureau of Identification may release any subsequent criminal history to the Board.

§ 3044. Qualifications of applicant.

(a) Applicants for chemical dependency professional license by certification under this chapter shall complete an application form, pay the required fee and provide evidence, verified by oath and satisfactory to the Board, that the applicant meets the following requirements:

(6) Does not have a criminal conviction nor pending criminal charge ~~relating to an offense, the circumstances of which substantially relate to actions as a licensed for an offense that is substantially related to~~ chemical dependency professional. counseling. Applicants who have a criminal conviction or pending criminal charge shall request appropriate authorities to provide information about the conviction or charge directly to the Board in sufficient specificity to enable the Board to make a determination whether the conviction or charge is substantially related to actions as a licensed chemical dependency professional. Board. However, if after consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(6), if it finds all of the following: the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board, by an affirmative vote of a majority of the quorum, shall waive this paragraph (a)(6). A waiver may not be granted for a conviction of a felony sexual offense.

a. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

b. ~~For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

c. ~~The applicant is capable of practicing licensed chemical dependency services in a competent and professional manner.~~

d. ~~The granting of the waiver will not endanger the public health, safety or welfare.~~

e. ~~The applicant has not been convicted of a felony sexual offense.~~

(8) Notwithstanding the time limitation set forth in § 8735(x)(4) of Title 29, Has has not been convicted of a felony sexual offense.

(9) Has submitted, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

a. A report of the applicant's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Central Repository contains no such information relating to that person.

b. A report of the applicant's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State Bureau of Identification shall be the intermediary for purposes of this section and the Board of Mental Health and Chemical Dependency Professionals shall be the screening point for the receipt of said federal criminal history records.

An applicant may not be licensed as a chemical dependency professional until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction for an offense that is substantially related to the practice of chemical dependency counseling may not be certified by the Board unless a waiver is granted pursuant to paragraph (a)(6) of this section. The State Bureau of Identification may release any subsequent criminal history to the Board.

§ 3052. Qualifications of applicant.

(a) An applicant who is applying for licensure under this subchapter shall complete a board-approved application, submit the application fee, and supply evidence verified by oath and satisfactory to the Board that the applicant:

(6) Does not have a criminal conviction record, or pending criminal charge, relating to an offense ~~the circumstances of which are substantially related to actions as a licensed marriage and family therapist, that is~~ substantially related to the practice of marriage and family therapy. Applicants who have criminal conviction records or pending criminal charges shall request appropriate authorities to provide information about the conviction or charge directly to the Board ~~in sufficient specificity to enable the Board to make a determination on whether the conviction or charge is substantially related to actions as a licensed marriage and family therapist.~~ Board. However, if after consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(6), if it finds all of the following: documentation, the Board determines that the granting of a waiver would not create an unreasonable risk to public safety, the Board shall waive this paragraph (a)(6) of this section. A waiver may not be granted for a conviction of a felony sexual offense.

a. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

b. ~~For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

c. ~~The applicant is capable of practicing licensed marriage and family therapy services in a competent and professional manner.~~

d. ~~The granting of the waiver will not endanger the public health, safety or welfare.~~

e. ~~The applicant has not been convicted of a felony sexual offense.~~

(9) Notwithstanding the time limitation set forth in § 8735(x)(4) of Title 29, Has has not been convicted of a felony sexual offense.

(10) Has submitted, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

a. A report of the applicant's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Central Repository contains no such information relating to that person.

b. A report of the applicant's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State Bureau of Identification shall be the intermediary for purposes of this section and the Board of Mental Health and Chemical Dependency Professionals shall be the screening point for the receipt of said federal criminal history records.

An applicant may not be licensed as a marriage and family therapist until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction that is substantially related to the practice of marriage and family therapy may not be certified by the Board unless a waiver is granted pursuant to paragraph (a)(6) of this section. The State Bureau of Identification may release any subsequent criminal history to the Board.

§ 3062. Qualifications of licensed professional art therapist.

An applicant who is applying for licensure under this subchapter shall complete a Board-approved application, submit the application fee, and supply evidence verified by oath and satisfactory to the Board that the applicant:

(6) Does not have a criminal conviction record, or pending criminal charge, relating to an offense ~~the circumstances of which are substantially related to actions as a licensed art therapist.~~ that is substantially related to the practice of art therapy. Applicants who have criminal conviction records or pending criminal charges shall request appropriate authorities to provide information about the conviction or charge directly to the Board in sufficient specificity to enable the Board to make a determination on whether the conviction or charge is substantially related to actions as a licensed art therapist. ~~Board.~~ However, if after consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (6) if it finds all of the following: the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board, by an affirmative vote of a majority of the quorum, shall waive this paragraph (6). A waiver may not be granted for a conviction of a felony sex offense.

a. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution, and community service.~~

~~b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution, and community service.~~

~~c. The applicant is capable of practicing licensed art therapy services in a competent and professional manner.~~

~~d. The granting of the waiver will not endanger the public health, safety, or welfare.~~

~~e. The applicant has not been convicted of a felony sexual offense.~~

(9) Notwithstanding the time limitation set forth in § 8735(x)(4) of Title 29, Has ~~has~~ not been convicted of a felony sex offense.

(10) a. Has submitted, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

1. A report of the applicant's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Central Repository contains no such information relating to that person.

2. A report of the applicant's entire federal criminal history record under the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State Bureau of Identification is the intermediary for purposes of this paragraph and the Board of Mental Health and Chemical Dependency Professionals is the screening point for the receipt of the federal criminal history records.

b. An applicant may not be licensed as a professional art therapist or an associate art therapist until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction that is substantially related to the practice of art therapy may not be licensed by the Board unless a waiver is granted pursuant to paragraph (6) of this section. The State Bureau of Identification may release any subsequent criminal history to the Board.

Section 21. Amend Chapter 31, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3107. Qualifications of applicants for licensure; judicial review; report to Attorney General.

(a) An applicant who is applying for licensure as a funeral director under this chapter shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(7) Shall not have a criminal conviction record, nor pending criminal charge relating to an ~~offense, the circumstances of which substantially relate~~ offense that is substantially related to the practice of funeral services. Applicants who have criminal conviction records or pending criminal charges shall require appropriate authorities to provide information about the record or charge directly to the ~~Board in sufficient specificity to enable the Board to make a determination whether the record or charge is substantially related to the practice of funeral services.~~ Board. After a hearing at which it is determined, or a review of documentation demonstrating,

that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(7), if it finds all of the following: If after consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board, by an affirmative vote of a majority of the quorum, shall waive this paragraph (a)(7).

a. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence, and must be in substantial compliance with all court orders pertaining to fines, restitution, and community service.~~

b. ~~For waiver of a misdemeanor conviction or violation, the applicant may not, at the time of the application, be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence, and must be in substantial compliance with all court orders pertaining to fines, restitution, and community service.~~

c. ~~The applicant is capable of practicing funeral services in a competent and professional manner.~~

d. ~~The granting of the waiver will not endanger the public health, safety, or welfare.~~

Section 22. Amend Chapter 33, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3313. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant who is applying for licensure as a veterinarian under this subchapter shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(5) ~~Shall not have a criminal conviction record, or pending criminal charge relating to an offense, the circumstances of which substantially relate~~ offense that is substantially related to the practice of veterinary medicine. Applicants who have criminal conviction records or pending criminal charges shall require appropriate authorities to provide information about the record or charge directly to the Board in sufficient specificity to enable the Board to make a determination whether the record or charge is substantially related to the practice of veterinary medicine; however, after Board; however, if after consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(5), if it finds all of the following: documentation, the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board, by an affirmative vote of a majority of the quorum, shall waive this paragraph (a)(5).

a. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~c. The applicant is capable of practicing veterinary medicine in a competent and professional manner.~~

~~d. The granting of the waiver will not endanger the public health, safety or welfare.~~

§ 3319. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant who is applying for licensure as a veterinary technician under this chapter shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(4) ~~Shall not have a criminal conviction record, or pending criminal charge relating to an offense, the circumstances of which substantially relate~~ offense that is substantially related to practice as a veterinary technician. Applicants who have criminal conviction records or pending criminal charges shall require appropriate authorities to provide information about the record or charge directly ~~to the Board in sufficient specificity to enable the Board to make a determination whether the record or charge is substantially related to practice as a veterinary technician; however, after Board; however, if after consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum may waive this paragraph (a)(4) herein, if it finds all of the following: the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board, by an affirmative vote of a majority of the quorum, shall waive this paragraph (a)(4);~~

~~a. For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~c. The applicant is capable of practicing as a veterinary technician in a competent and professional manner.~~

~~d. The granting of the waiver will not endanger the public health, safety or welfare;~~

Section 23. Amend Chapter 35, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline.

§ 3508. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant who is applying for licensure as a psychologist under this chapter shall submit evidence, verified by oath and satisfactory to the Board, that such person has:

(5) ~~Not Subject to the provisions of § 8735(x) of Title 29, has not~~ engaged in any of the acts or offenses that would be grounds for disciplinary action under this chapter; and has no disciplinary proceedings or unresolved complaints pending against the applicant in any jurisdiction where the applicant has previously been or currently is licensed or certified as a psychologist.

§ 3509. Qualifications of applicants for registration as a psychological assistant; number of psychological assistants; requirements of supervision.

(a) Any psychologist licensed in this State, who has practiced as a licensed psychologist for 2 years in this State or in any other jurisdiction, and who applies to the Board for the registration of a psychological assistant shall:

(2) Submit evidence, verified by oath and satisfactory to the Board, that such person:

e. Subject to the provisions of § 8735(x) of Title 29, has Has not engaged in any acts or offenses that would be grounds for disciplinary action under this chapter; and, has no disciplinary proceedings or unresolved complaints pending against the applicant in any jurisdiction where the individual has been or currently is licensed, registered or certified to practice psychology.

§ 3514. Grounds for refusal, revocation or suspension of licenses and registrations.

(a) A practitioner licensed or registered under this chapter shall be subject to disciplinary actions set forth in § 3516 of this title, if, after a hearing, the Board finds that the psychologist or psychological assistant:

(2) a. Has been convicted of a crime that is substantially related to the practice of psychology or a crime involving the violation of a patient's trust; psychology; a copy of the record of conviction certified by the clerk of the court entering the conviction shall be conclusive evidence therefor; however, if after consideration of the factors set forth in § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(2), if it finds all of the following: the Board determines that granting a waiver to an initial applicant would not create an unreasonable risk to public safety, the Board, by an affirmative vote of a majority of the quorum, shall waive this paragraph (a)(2). A waiver may not be granted for a conviction of a felony sexual offense.

a. For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.

b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.

c. The applicant is capable of practicing psychology in a competent and professional manner.

~~d. The granting of the waiver will not endanger the public health, safety or welfare.~~

~~e. The applicant has not been convicted of a felony sexual offense.~~

f. ~~b. The applicant has submitted.~~ An applicant must submit, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

1. A report of the applicant's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Central Repository contains no such information relating to that person.

2. A report of the applicant's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State Bureau of Identification shall be the intermediary for purposes of this section and the Board shall be the screening point for the receipt of said federal criminal history records.

An applicant may not be licensed until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction that is substantially related to the practice of psychology may not be licensed by the Board unless a waiver is granted pursuant to this chapter. The State Bureau of Identification may release any subsequent criminal history to the Board.

(10) Has Notwithstanding the time limitation set forth in § 8735(x)(4) of Title 29, has been convicted of a felony sexual offense;

Section 24. Amend Chapter 36, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3608. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant who is applying for licensure as a geologist under this chapter shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(6) ~~Shall not have a criminal conviction record, nor pending criminal charge relating to an offense, the circumstances of which substantially relate offense that is substantially related to the practice of geology.~~ Applicants who have criminal conviction records or pending criminal charges shall require appropriate authorities to provide information about the record or charge directly to the Board in sufficient specificity to enable the Board to make a determination whether the record or charge is substantially related to the practice of geology. ~~Board.~~ However, if after review of the factors set forth in § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(6), if it finds all of the following: the Board determines that the granting of a waiver would not create an unreasonable risk to public safety, the Board, by an affirmative vote of a majority of the quorum, shall waive this paragraph (a)(6).

a. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

b. ~~For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

c. ~~The applicant is capable of practicing geology in a competent and professional manner.~~

d. ~~The granting of the waiver will not endanger the public health, safety or welfare.~~

Section 25. Amend Chapter 37, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3708. Qualifications of applicant; report to Attorney General; judicial review.

(b) All applicants shall meet the following conditions:

(3) ~~Shall~~ Does not have a criminal conviction record, nor pending criminal charge relating to an offense ~~the circumstances of which substantially relate~~ that is substantially related to their licensed practice. Applicants who have criminal conviction records or pending criminal charges shall request appropriate authorities to provide information about the conviction or charge directly to ~~the Board in sufficient specificity to enable the Board to make a determination whether the conviction or charge is substantially related to the applicant's area of practice.~~ Board. However, if after consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (b)(3), if it finds all of the following: the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board, by an affirmative vote of a majority of the quorum, shall waive this paragraph (b)(3). A waiver may not be granted for conviction of a felony sexual offense.

a. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

b. ~~For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

c. ~~The applicant is capable of practicing speech/language pathology, audiology or the dispensing of hearing aids in a competent and professional manner.~~

d. ~~The granting of the waiver will not endanger the public health, safety or welfare.~~

(4) Notwithstanding the time limitation set forth in § 8735(x)(4) of Title 29, Shall not have ~~has not~~ been convicted of a felony sexual offense.

(5) Shall submit, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

c. An applicant may not be licensed as a speech/language pathologist, audiologist or hearing aid dispenser until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction that is substantially related to the applicant's professional practice area, may not be licensed by the Board unless a waiver is granted pursuant to paragraph (b)(3) of this section.

Section 26. Amend Chapter 38, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3806. Qualifications of applicants.

(c) The Board may refuse or reject an applicant if, after hearing, the Board finds that the applicant meets any of the following conditions or actions:

(2) Has been convicted of a crime that is substantially related to the provision of dietetic and nutrition therapy. However, if after consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (c)(2), if it finds all of the following: the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board, by an affirmative vote of a majority of the quorum, shall waive this paragraph (c)(2).

a. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

b. ~~For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

c. ~~The applicant is capable of performing dietetic and nutrition services in a competent and professional manner.~~

d. ~~The granting of the waiver will not endanger the public health, safety or welfare.~~

Section 27. Amend Chapter 39, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3907. Qualifications of applicants; licensure tiers; report to Attorney General; judicial review.

(a) An applicant who is applying for examination and licensure under this chapter shall submit evidence, verified by oath and satisfactory to the Board, that the applicant meets all of the following criteria:

(3) Has Notwithstanding the time limitation set forth in § 8735(x)(4) of Title 29, has not been convicted of a felony sexual offense.

(7) ~~Has not been convicted of a crime that is substantially related to social work or any offense which would limit the applicant's ability to carry out the applicant's professional duties with due regard for the health and safety of clients. work.~~ The Board may, by affirmative vote of a quorum of the Board, waive the

requirement of this paragraph if it finds, after a hearing or review of documentation, that the applicant seeking waiver meets, when the applicant's application is filed, all of the following criteria: However, if after consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board, by affirmative vote of a majority of the quorum, shall waive this paragraph (a)(7). A waiver may not be granted for a conviction of a felony sexual offense.

a. ~~For waiver of a misdemeanor conviction or violation, the applicant is not incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence and is in substantial compliance with all court orders pertaining to fines, restitution, and community service.~~

b. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of conviction; the applicant is not incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence; and the applicant is in substantial compliance with all court orders pertaining to fines, restitution, and community service.~~

c. ~~The applicant has not been convicted of a felony sexual offense.~~

d. ~~The applicant is capable of practicing social work in a competent and professional manner.~~

e. ~~Granting the waiver will not endanger the public health, safety, or welfare.~~

Section 28. Amend Chapter 40, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4008. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant, who is applying for certification or licensure as an appraiser under this chapter, for the relevant certificate, license or registration, shall submit evidence, verified by oath and satisfactory to the Council, that such person:

(4) ~~Shall~~ Does not have a criminal conviction record, nor pending criminal charge relating to an offense, ~~the circumstances of which substantially relate~~ offense that is substantially related to real estate appraising. Applicants, who have criminal conviction records or pending criminal charges, shall request appropriate authorities to provide information about the record or charge directly to the ~~Council in sufficient specificity to enable the Council to make a determination whether the record or charge is substantially related to real estate appraisal.~~ Council. ~~However, if after consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Council, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(4); if it finds all of the following: the Council finds that a waiver would not create an unreasonable risk to public safety, the Council, by an affirmative vote of a majority of the quorum, shall waive this paragraph (a)(4).~~

a. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~c. The applicant is capable of practicing real estate appraisal in a competent and professional manner.~~

~~d. The granting of the waiver will not endanger the public health, safety or welfare.~~

§ 4009. Appraiser trainee; requirements of supervision.

(a) Persons, who are presented to the Council by a supervising appraiser for registration as an appraiser trainee, shall provide a statement to the Council that the trainee:

(4) ~~Shall not have~~ Has not been convicted of a crime that is substantially related to the practice of real estate appraisal. However, if after consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Council, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(4), if it finds all of the following: the Council determines that granting a waiver would not create an unreasonable risk to public safety, the Council, by an affirmative vote of a majority of the quorum, shall waive this paragraph (a)(4).

~~a. For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~c. The applicant is capable of practicing real estate appraisal trainee services in a competent and professional manner.~~

~~d. The granting of the waiver will not endanger the public health, safety or welfare.~~

§ 4025. Owner requirements for appraisal management companies.

(b) Each person that owns an appraisal management company in this State shall:

(1) Submit, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

c. An applicant may not be registered until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction that is substantially related to the practice of real estate appraisal may not be registered by the Council unless a waiver is granted pursuant to § 4008(a)(4) of this title. The State Bureau of Identification may release any subsequent criminal history to the Council.

§ 4026. Appraisal management company controlling person.

(b) To serve as a controlling person of an appraisal management company, a person shall:

(2) a. A report of the applicant's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State Bureau of Identification shall be the intermediary for purposes of this section and the Council on Real Estate Appraisers shall be the screening point for the receipt of said federal criminal history records.

b. An applicant may not be registered until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction that is substantially related to the practice of real estate appraisal may not be registered by the Council unless a waiver is granted pursuant to § 4008(a)(4) of this title. The State Bureau of Identification may release any subsequent criminal history to the Council.

Section 29. Amend Chapter 41, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4108. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant, who is applying for licensure as a home inspector under this chapter, for the relevant license, shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(6) ~~Shall not have~~ Has not been convicted of a crime that is substantially related to the practice of home inspection; however, if after consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(6), if it finds all of the following: the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board shall, by an affirmative vote of a majority of the quorum, waive this paragraph (a)(6).

a. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service;~~

b. ~~For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service;~~

c. ~~The applicant is capable of practicing home inspection in a competent and professional manner;~~
and

d. ~~The granting of the waiver will not endanger the public health, safety or welfare.~~

§ 4109. Home inspector trainee; requirements of supervision. ~~Home Inspectors, 4109(a)~~

(a) Persons, who are presented to the Board by a supervising home inspector for registration as a home inspector trainee, shall provide a statement to the Board that the trainee:

(4) Shall not have been convicted of a crime that is substantially related to the practice of home inspection; however, if after consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(4), if it finds all of the following: the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board, by an affirmative vote of a majority of the quorum, shall waive this paragraph (a)(4).

a. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service;~~

b. ~~For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service;~~

c. ~~The applicant is capable of practicing home inspection in a competent and professional manner; and~~

d. ~~The granting of the waiver will not endanger the public health, safety or welfare.~~

Section 30. Amend Chapter 44, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4431. Licensure requirements; reciprocal licensure.

(a) To obtain a manufactured home installer license, a person must:

(10) ~~Not have a criminal conviction nor pending criminal charge relating to an offense, the circumstances of which substantially relate to actions as offense that is substantially related to the work of a licensed manufactured home installer. Applicants who have a criminal conviction or pending criminal charge shall request appropriate authorities to provide information about the conviction or charge directly to the Board in sufficient specificity to enable the Board to make a determination whether the conviction or charge is substantially related to actions as a licensed chemical dependency professional. Board. However, if after consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(10), if it finds all of the following: the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board shall, by an affirmative vote of a majority of the quorum, waive this paragraph (a)(10).~~

a. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~c. The applicant is capable of performing manufactured home installation services in a competent and professional manner.~~

~~d. The granting of the waiver will not endanger the public health, safety or welfare.~~

Section 31. Amend Chapter 51, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5107. Qualifications of applicant; judicial review; report to Attorney General.

(a) All persons applying for a license to practice under this chapter:

(6) Shall not have been convicted of a crime substantially related to the practice of cosmetology, barbering, electrology or nail technology, unless the applicant was previously so licensed or was enrolled in a training program to be so licensed while an offender under the supervision of the Department of Correction prior to July 10, 2001. In determining whether a crime is substantially related to the professions regulated by this chapter, the Board shall ~~not consider a conviction where more than 10 years have elapsed since the date of conviction, if there have been no other criminal convictions in the intervening time.~~ follow the restrictions set forth under § 8735(x)(4) of Title 29. ~~After~~ If after consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, or, during the time period between Board meetings, the Board President or his or her designee, may waive this paragraph (a)(6), if it finds all of the following: the Board determines that granting a waiver would not create an unreasonable risk to public safety, the Board, by an affirmative vote of a majority of the quorum, or during the time period between Board meetings, the Board President or the President's designee, shall waive this paragraph (a)(6).

~~a. For waiver of a felony conviction where the crime was committed against a person, more than 3 years have elapsed since the date of the conviction and for all other felonies, more than 2 years have elapsed since the date of conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation or parole at Level III Supervision or higher, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation or parole at Level III Supervision or higher, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~c. The applicant is capable of practicing cosmetology, barbering, electrology or nail technology in a competent and professional manner.~~

~~d. The granting of the waiver will not endanger the public health, safety or welfare.~~

(7) Shall not have a pending criminal charge relating to an offense ~~the circumstances of which~~ substantially relate that is substantially related to the practice of cosmetology, barbering, electrology or nail technology. Applicants who have criminal conviction records or pending criminal charges shall require appropriate authorities to provide information about the record or charge directly to the Board in sufficient specificity to enable the Board to make a determination ~~whether the applicant can carry out that applicant's own professional services with due regard for the health and safety of the recipients of those services and the public.~~ under § 8735(x)(3) of Title 29 whether a waiver is required.

§ 5127. Qualifications.

(a) No person shall be licensed under this subchapter unless the person has done all of the following:

(6) Shall not have been convicted of a crime substantially related to the practice of aesthetics. In determining whether a crime is substantially related to the practice of aesthetics, the Board shall ~~not consider a conviction where more than 10 years have elapsed since the date of conviction, if there have been no other criminal convictions in the intervening time.~~ observe the limitations set forth in § 8735(x)(4) of Title 29. After If after a consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, or, during the time period between Board meetings, the Board President or his or her designee, ~~may waive this paragraph (a)(6), if it finds all of the following:~~ determines that granting a waiver would not create an unreasonable risk to public safety, the Board, by an affirmative vote of a majority of the quorum, or during the time period between Board meetings, the Board President or President's designee, shall waive this paragraph (a)(6).

~~a. For waiver of a felony conviction where the crime was committed against a person, more than 3 years have elapsed since the date of the conviction and for all other felonies, more than 2 years have elapsed since the date of conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation or parole at Level III Supervision or higher, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation or parole at Level III Supervision or higher, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

~~c. The applicant is capable of performing as a licensed aesthetician in a competent and professional manner.~~

~~d. The granting of the waiver will not endanger the public health, safety or welfare.~~

Section 32. Amend Chapter 52, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5209. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant applying for original licensure as a nursing home administrator under this chapter shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(6) Has complied with the provisions of § 5208 of this title regarding criminal background records and does not have a criminal conviction record nor pending criminal charge which is substantially related to nursing home administration. However, if after consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(6), if it finds all of the following: determines that granting a waiver would not create an unreasonable risk to public safety, the Board shall waive this paragraph (a)(6).

a. ~~For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

b. ~~For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

c. ~~The applicant is capable of practicing nursing home administration in a competent and professional manner.~~

d. ~~The granting of the waiver will not endanger the public health, safety, or welfare.~~

Section 33. Amend Chapter 53, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5308. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant who is applying for licensure as a massage and bodywork therapist under this chapter must submit evidence, verified by oath and satisfactory to the Board, that such person:

(9) Has not been convicted of a crime that is substantially related to the practice of massage and bodywork. In determining whether a crime is substantially related to the practice of massage and bodywork, the Board ~~may not consider a conviction where more than 10 years have elapsed since the date of conviction, shall observe the limitations set forth under § 8735(x)(4) of Title 29, with the exception of a conviction for any felony sexual offense as defined under § 761 of Title 11 or unlawful sexual contact in the third degree as defined under § 767 of Title 11, which may be considered regardless of the passage of time since the date of conviction. if there have been no other criminal convictions in the intervening time. After~~ If after consideration of the factors set forth under § 8735(x)(3) of Title 29 through a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, or during the time period between Board meetings, the Board President or the

President's designee, ~~may waive this paragraph (a)(9), if it finds all of the following: determines that granting a waiver would not create an unreasonable risk to public safety, the Board, Board President, or President's designee shall waive this paragraph (a)(9). A waiver may not be granted for a conviction of a felony sexual offense;~~

a. ~~For waiver of a felony conviction, where the crime was committed against a person, more than 3 years have passed since the date of the conviction and for all other felonies, more than 2 years have passed since the date of conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation or on parole at Level III Supervision or higher, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

b. ~~For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.~~

c. ~~For waiver of a conviction for unlawful sexual contact in the third degree, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence, must be in substantial compliance with all court orders pertaining to fines, restitution and community service, and the Board shall continue to have the discretion to grant or deny the waiver for this specific conviction regardless of the amount of time that has passed since the date of conviction.~~

d. ~~The applicant is capable of practicing massage and bodyworks in a competent and professional manner.~~

e. ~~The granting of the waiver will not endanger the public health, safety or welfare;~~

(10) Notwithstanding the time limitation set forth under § 8735(x)(4) of Title 29, Has ~~has~~ not been convicted of a felony sexual offense as defined under § 761 of Title 11; and

(11) Has submitted, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

a. A report of the applicant's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Central Repository contains no such information relating to that person.

b. A report of the applicant's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State Bureau of Identification shall be the intermediary for purposes of this section and the Board of Massage and Bodywork shall be the screening point for the receipt of said federal criminal history records.

c. An applicant may not be licensed to practice as a massage therapist until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction

that is substantially related to the practice of massage and bodywork may not be licensed by the Board unless a waiver is granted pursuant to paragraph (a)(9) of this section.

Section 34. This Act takes effect on January 1, 2023.

Approved September 21, 2022