



ADMINISTRATIVE RULES OF MONTANA



24.101.406 APPLICANTS WITH CRIMINAL CONVICTIONS

- (1) The following criteria shall apply to determine whether an applicant's criminal conviction is related to the public health, welfare, and safety as it applies to the occupation:
 - (a) whether the occupation would offer the opportunity for the commission of the offense or similar offense;
 - (b) the vulnerability of the population served by the occupation to become victims of the offense or similar offense;
 - (c) the facts and circumstances of the conduct surrounding the offense; or
 - (d) other reasonable demonstration of relatedness.
- (2) The following criteria shall apply to determine if the applicant, even while serving supervised release, is insufficiently rehabilitated to warrant the public trust:
 - (a) commission of multiple offenses;
 - (b) revocation or correctional intervention of the applicant's probation, parole, or conditional release;
 - (c) unsatisfied court-ordered conditions;
 - (d) lack of candor, misrepresentation, or omission in disclosing the offense or circumstances of the offense;
 - (e) statements that demonstrate lack of remorse or accountability for the conduct;
 - (f) unless good cause exists, failure to maintain education, training, or employment on at least a part-time basis; or
 - (g) other credible evidence of insufficient rehabilitation.
- (3) The board shall, unless the conviction is exempt from board review as provided by this rule, determine whether enough time has passed since the applicant's conviction, release from incarceration, or discharge of sentence to evaluate rehabilitation given the nature and circumstances of the offense.
- (4) An applicant will not be required to report:
 - (a) arrests that did not result in the above outcomes;
 - (b) convictions (juvenile adjudications) received when under 18, unless convicted as an adult; or

- (c) misdemeanor driving violations, including driving under the influence, if sentenced more than five years before the application date.
- (5) Unless board rule provides otherwise, authorized staff may determine there is no evidence of lack of rehabilitation and issue a license to an otherwise qualified applicant who meets the following criteria:
 - (a) Nonviolent misdemeanor convictions if the conviction date is more than two years before the application date, unless the applicant is still in custody due to the conviction.
 - (b) Nonviolent felony convictions if the conviction date is more than five years before the application date, unless the applicant is still in custody due to the conviction.
- (6) Unless board rule provides otherwise, all violent misdemeanor or felony convictions and any nonviolent misdemeanor and nonviolent felony convictions not included in (5) must be reviewed by the board as nonroutine applications.
- (7) Notwithstanding the screening criteria in (5)(a) and (b), staff may require board review of applicants who engaged in egregious conduct implicating risks to public safety.

Authorizing statute(s): 2-4-201, MCA

Implementing statute(s): 2-4-201, 37-1-101, 37-1-104, 37-1-203, 37-1-205, 37-1-316, MCA

History: NEW, 2020 MAR p. 2144, Eff. 11/21/20.