

# WEST VIRGINIA CODE: §21-1-6

## **§21-1-6. Use of criminal records as disqualification from authorization to engage in licensed profession or occupation.**

(a) The commissioner may not disqualify an applicant from initial licensure, as required in this chapter, because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the activity requiring licensure. In determining whether a criminal conviction bears a rational nexus to a profession or occupation, the commissioner shall consider at a minimum:

- (1) The nature and seriousness of the crime for which the individual was convicted;
- (2) The passage of time since the commission of the crime;
- (3) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation; and
- (4) Any evidence of rehabilitation or treatment undertaken by the individual.

(b) Notwithstanding any other provision of this code to the contrary, if an applicant is disqualified from licensure because of a prior criminal conviction, the commissioner shall permit the applicant to apply for initial licensure if:

- (1) A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;
- (2) The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and
- (3) The conviction was not for an offense of a violent or sexual nature: *Provided*, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure, to be determined by the commissioner.

(c) An individual with a criminal record who has not previously applied for licensure may petition the commissioner at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license. This petition shall include sufficient details about the individual's criminal record to enable the commissioner to identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of the conviction. The commissioner shall provide the determination within 60 days of receiving the petition from the applicant. The commissioner may charge a fee to recoup its costs for each petition.