

**Arizona State Board of Nursing
Substantive Policy Statement
Applications for Reissuance: Guidelines For Information That Constitutes “Substantial
Evidence of Remediation and or Rehabilitation**

Approved September 27, 2013

This Substantive Policy Statement is advisory only. A Substantive Policy Statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on the regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedures Act. If you believe that this Substantive Policy Statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes Section (A.R.S.) 41-1033 for a review of the statement. (A.R.S. § 41-1091 (B))

REFERENCE:

March 14, 1996 Board decision regarding information that would constitute substantial evidence of a change in circumstances following voluntary surrender or revocation of a license/certificate.
Board Approved Policy: Criteria For Opening Complaints/Investigations, July 26, 2011

A.R.S. § 32-1606 Powers and duties of board

- B. The board shall:
17. Revoke a license of a person, revoke the multistate licensure privilege of a person pursuant to section 32-1669 or not issue a license or renewal to an applicant who has one or more felony convictions and who has not received an absolute discharge from the sentences for all felony convictions five or more years before the date of filing an application pursuant to this chapter.

A.R.S. § 32-1664. Investigation; hearing; notice

- O. The board may subsequently issue a denied license or certificate and may reissue a revoked or voluntarily surrendered license or certificate.

Arizona Administrative Code (A.A.C.) Rule 4-19-404. Re-issuance or Subsequent Issuance of License

- B. A person whose nursing license is denied, revoked, or voluntarily surrendered under A.R.S. § 32-1663 may apply to the Board to issue or re-issue the license:
1. Five years from the date of denial or revocation, or
 2. In accordance with the terms of a voluntary surrender agreement.
- C. A person who applies for issuance or re-issuance of a license under the conditions of subsection (B) is subject to the following terms and conditions:
1. *The person shall submit a written application for issuance or re-issuance of the license that contains substantial evidence that the basis for surrendering, denying, or revoking the license has been removed and that the issuance or re-issuance of the license will not be a threat to public health or safety.*
 2. Safe practice.
 - a. Under A.R.S. § 32-1664(F), the Board for reasonable cause may require a combination of mental, physical, nursing competency, psychological, or psychiatric evaluations, or any combination of evaluations, reports, and affidavits that the Board considers necessary to determine the person's competence and conduct to safely practice nursing.

3. After receipt of the application, the information required under subsection (C)(2), and the completion of an investigation, the Board shall place the application on the agenda of a regularly scheduled Board meeting.
4. After consideration of the application and any information required under subsection (C)(2), the Board may:
 - a. Grant the license with or without conditions or limitations;
 - b. If other licensure requirements have been met, grant, with or without conditions, a temporary license for the sole purpose of allowing the applicant to successfully complete an approved nurse refresher course; or
 - c. Deny the license if the Board determines that licensure might be harmful or dangerous to the health of a patient or the public.
5. If the Board orders a refresher course described in subsection (C)(4)(b) the Board shall consider the applicant's performance in the approved refresher course and any other evidence, if available, of the applicant's safety to practice, and either deny the license under subsection (C)(4)(c) or grant the license with or without conditions or limitations.
6. An applicant who is denied issuance or re-issuance of a license shall have 30 days from the date of issuance of the notice of denial from the Board to file a written request for hearing with the Board. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

A.A.C. Rule 4-19-815. Reinstatement or Issuance of a Nursing Assistant Certificate

An applicant whose application is denied or a nursing assistant whose certificate is revoked in accordance with A.R.S. § 32-1663, may reapply to the Board after a period of five years from the date the certificate or application is revoked or denied. A nursing assistant who voluntarily surrenders a nursing assistant certificate may reapply to the Board after no less than three years from the date the certificate is surrendered. The Board shall issue or reinstate a nursing assistant certificate under the following terms and conditions:

1. An applicant shall submit documentation showing that the basis for denial, revocation or voluntary surrender has been removed and that the issuance or reinstatement of nursing assistant certification will no longer constitute a threat to the public health or safety. The Board may require an applicant to be tested for competency, or retake and successfully complete a Board approved training program and pass the required examination.
2. The Board shall consider the application and may designate a time for the applicant to address the Board at a regularly scheduled meeting.
3. After considering the application, the Board may:
 - a. Grant nursing assistant certification, or
 - b. Deny the application.
4. An applicant who is denied issuance or reinstatement of nursing assistant certification may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying issuance or reinstatement of nursing assistant certification. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6.

PURPOSE

The purpose of this Substantive Policy is to provide guidance to reissuance applicants about the information the Board may consider as “substantial evidence that the basis for surrendering, denying, or revoking a license/certificate has been removed and that the issuance or re-issuance of the license/certificate will not be a threat to public health or safety” [A.A.C. Rules 4-19-404 (C) 1 and 4-19-815 (1)].

POLICY

A.A.C. Rules 4-19-404 and 4-19-815 require an applicant for reissuance/subsequent issuance of a previously surrendered or revoked license/certificate or denied application to submit substantial evidence that the basis for a prior surrender, revocation or denial of a license/certificate has been removed. Following a review and determination by the Executive Director, any application that does not provide such evidence within the timeframes as identified in A.A.C. Rule 4-19-102, may be withdrawn by the agency. If the application is withdrawn, Applicant’s prior license/certificate disciplinary status will remain in effect. Notice of intent to withdraw the application will be sent to Applicant. Within thirty (30) days of service of the notice of intent to withdraw the application, Applicant may submit to the Executive Director, a written appeal of the decision to withdraw the application, and the matter will be placed on a future Board agenda consideration by the Board.

When a reissuance/subsequent issuance application triggers a Board investigation, Board staff may submit the application to the Board for consideration and possible denial of the application even if the application is incomplete.

Upon receipt and review by the Board of a complete reissuance application, the Board may grant the reissuance/subsequent issuance with or without conditions as determined by the Board, or may deny the application.

The Board will consider, in part, the Findings of Fact and Conclusions of Law in the original Order of Revocation, Denial or Consent Agreement for Voluntary Surrender, and information received from Applicant demonstrating “substantial evidence” that the basis for the earlier surrender, revocation or denial has been removed.

The following are examples of the types of documents that may qualify as “substantial evidence” for some of the more common types of unprofessional conduct that led to a prior surrender, revocation or denial of licensure/certification. These are not complete lists of acceptable documents, but instead are provided to assist applicants to identify the types of documents that may demonstrate the basis for the prior surrender, revocation or denial of a license or certificate has been removed when the Board is reviewing the application:

Clinical practice issues:

1. Evidence of continuing education or other classes in areas of previously identified practice or knowledge deficits.
2. Confirmation that Applicant intends to enroll in a refresher course if reissuance is permitted by the Board.

3. Successful practice in another state or jurisdiction within the two years before the date of application.

Substance use, misuse or substance use disorder:

1. Completion and submission of the Board's "Recovery Questionnaire".
2. An evaluation, completed within six months of date of application, by a Board approved evaluator with is, at minimum, PhD prepared and has education, training and expertise in evaluations and treatment of substance use disorders, and who has been provided, before the evaluation, relevant information including a copy of the Board Order or Consent Agreement for denial, surrender or revocation.
3. Evidence of having successfully completed treatment specific to Applicant's substance use disorder(s).
4. Evidence of a least two years of sobriety from alcohol and unauthorized drug use, including evidence of random drug and alcohol testing, preferably for a minimum of twelve months before date of application.
5. Evidence of active and ongoing participation in recovery activities, including 12 step (or similar program) attendance with sponsor relationship.
6. Documentation from all treatment providers seen during the 24 months before the date of application confirming all medications prescribed and compliance with treatment recommendations.
7. If Applicant has current controlled substances prescriptions for chronic pain, anxiety, or other chronic conditions, a neuropsychological evaluation, completed within six months before the date of application, by a Board approved evaluator with specific expertise in evaluating health care professionals' ability to safely practice while taking prescribed controlled substances. Before the evaluation, the evaluator must be provided, information related to Applicant's substance use disorder including the Board Order or Consent Agreement for denial, surrender or revocation, and copies of treatment records, including prescription profiles for the 12 months before the evaluation.

Physical or verbal abuse:

1. Disclosure of all arrests, and copies of arresting police/law enforcement report(s) and court documents, if available. If records are no longer available, a letter on letterhead from law enforcement or the court where the incident occurred confirming that the records no longer exist.
2. A comprehensive fitness to practice psychological evaluation, completed within six months of the date of application, by a Board approved psychologist who has been provided, before the evaluation, information related to Applicant's history of abuse including the Board Order or Consent Agreement for the denial, surrender or revocation, and all arrest or conviction records.
3. Documentation, including provider records, of psychiatric treatment and/or mental health counseling, if any. [Note: these records must be submitted directly from the treatment provider to the Board]
4. Evidence of counseling or course work related to preventing abusive behavior and reducing the potential for recidivism. Examples include individual or group counseling focused on anger management, impulse control, and interpersonal communications in health care related positions

5. Evidence of employment stability within the two years before date of application.
6. Letters of recommendation from current employers and/or employers for whom Applicant has been employed since the license/certificate was denied, surrendered or revoked.

Criminal convictions:

1. Proof of absolute discharge from all felony and/or undesignated felony offenses for five or more years prior to submitting application.
2. Disclosure of all arrests and copies of arresting police/law enforcement report and court documents, if available. If records are no longer available, a letter on letterhead from law enforcement or the court where the incident occurred confirming that the records no longer exist.
3. Evidence of completion of all court-ordered requirements of all sentences, including probationary terms.
4. A fitness to practice evaluation completed within six months of the date of application, by a Board approved forensic psychologist/evaluator who has been provided, before the evaluation, relevant information related to Applicant's criminal history, including the Board Order or Consent Agreement for the denial, surrender or revocation, and all arrest or conviction records.
5. Evidence of employment stability within the two years before date of application.
6. Letters of recommendation from current employers and other employers for whom Applicant has been employed since the license/certificate was denied, surrendered or revoked.
7. If applicable, a personal statement asserting that Applicant has not had any additional arrests or other criminal incidents since the last Board action. If available, the Board will also consider evidence, obtained and presented by Board staff, supporting this personal statement.

Theft or exploitation of patient and/or family member:

1. A fitness to practice evaluation, completed within six months of the date of application, by a Board approved forensic psychologist/evaluator with expertise in evaluations of individuals who have engaged in theft or exploitation of others, and who has been provided, before the evaluation, relevant information including the Board Order or Consent Agreement for the denial, surrender or revocation, and records related to Applicant's arrest or conviction history.
2. Evidence of successful completion of counseling with a treatment provider who has education, training and experience in the evaluation and treatment of individuals who engage in theft and/or exploitation of others.
3. Evidence of employment stability within the two years before the date of application.
4. Letters of recommendation from current employers and other employers for whom Applicant has been employed since the license/certificate was denied, surrendered or revoked.

Sexual misconduct or failure to maintain appropriate boundaries with a patient and/or family member:

1. A fitness to practice evaluation completed within six months of the date of application by a Board approved forensic psychologist/evaluator who has education, training and experience in the evaluation, treatment, and management of individuals who sexually offend, and who has been provided, before the evaluation, relevant information, including the Board Order or Consent Agreement for the denial, surrender or revocation, and records related to the sexual misconduct/boundaries unprofessional conduct.
2. Evidence of successful completion of counseling specific to sexual misconduct and/or violations of professional boundaries with a treatment provider who has education, training and experience in the evaluation, treatment, and management of individuals who sexually offend, and who is aware of Applicant's Board Order or Consent Agreement for revocation, surrender or denial.
3. Evidence of employment stability within the two years before the date of application.
4. Letters of recommendation from current employers and other employers for whom Applicant has been employed since the license/certificate was denied, surrendered or revoked.