



TO: Economic Affairs Interim Committee  
FROM: Todd Younkin, Division Administrator  
Colleen White, Legal Counsel, Business Standards Division  
RE: SJ18, L. 2019  
DATE: June 17, 2020

We respectfully submit this supplement to the Business Standards Division's January 30, 2020 memo for the Committee's consideration.

In response to questions raised by this study, the Division has drafted an administrative rule and internal procedure to formalize in writing the informal processes the Division follows under Title 37, Ch. 1, pt. 2 Montana Code Annotated regarding license applicants with criminal convictions. These documents will clarify that the Division already complies with policies recommended by reform advocates.

Montana law prohibits blanket bans on convictions for persons seeking professional licenses because it requires "relevancy" and "rehabilitation" findings to precede a decision to deny a license. The documents list criteria that examine for example, the nature and circumstances of the offense, the time elapsed since the offense, and the individual's subsequent conduct. Because relatedness and rehabilitative criteria must be applied, vague standards of "good moral character" or "moral turpitude" may not serve as a legal basis to deny a license.

The documents will further clarify that:

- an applicant is not required to report arrests or convictions received when the applicant was a minor,
- boards may authorize staff to issue licenses where convictions are older and less serious and avoid delay to the applicant, while ensuring that more recent and serious convictions are reviewed by the board, and
- boards may limit consideration of certain types of criminal convictions and other types after a specified time, including but not limited to driving violations and alcohol-related violations such as driving under the influence.

The Division will finalize these documents to present to boards and continue its longstanding processes that result in few application denials for criminal convictions but allows for screening of applicants for conduct that would threaten patients and consumers.