


**DEPARTMENT OF HEALTH
WASHINGTON STATE BOARD OF NURSING
PROCEDURE**

Title:	Decision Making Criteria for Exception License Applications	Number:	A21.09
Reference:	RCW 18.130.064 - Authority and duties—Secretary and disciplining authority—Background checks. RCW 18.80.020(3)(f) - General provisions—Jurisdiction. RCW 18.130.180(2) - Unprofessional conduct. <i>Haley v. Medical Disciplinary Board</i> , 117 Wash.2d 720 (1991) <i>In re Kindschi</i> , 52 Wash.2d 8 (1958)		
Contact:	Catherine Woodard Director, Discipline and Washington Health Professional Services Washington State Board of Nursing (WABON)		
Effective Date:	October 22, 2024	Date for Review:	October 22, 2026
Supersedes:	A21.08 - January 12, 2024 A21.07 - August 1, 2016 A21.06 - October 1, 2015 A21.05 - September 9, 2011 A21.04 - July 1, 2005 A21.03 - March 12, 2004 A21.02 - May 16, 2003 A21.01 - March 14, 1997		
Approved:	 Alison Bradywood DNP, MN/MPH, RN, NEA-BC Executive Director Washington State Board of Nursing (WABON)		

PURPOSE:

When an otherwise qualified applicant for a nursing license has a positive response or criminal background check, the application is considered an “exception” application. This procedure describes the process for the Washington State Board of Nursing (Board) to consider such applications. It is the intent of the Board to fairly and quickly process applications for licenses.

On July 8, 2016, the Board, formerly Nursing Care Quality Assurance Commission (NCQAC) approved the Health Services Quality Assurance (HSQA) FBI background administrative staff to use this procedure in comparison decision making with court documents against positive FBI background results. This update to the procedure *rescinds* decision making authority for HSQA background check staff and requires all criminal conviction history to be provided to the Board in accordance with relevant laws and regulations.

PROCEDURE:

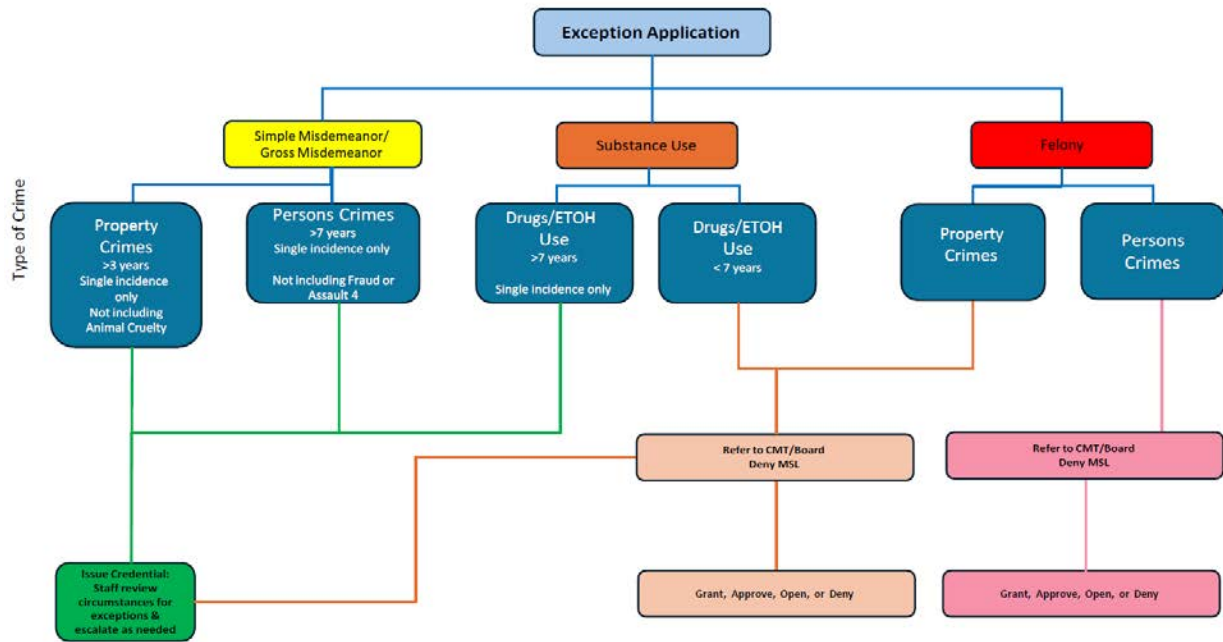
- I. The Board staff shall approve applications when no criminal convictions exist, and the applicant meets all other licensure criteria. Cases involving convictions shall be reviewed according to IV.D below.
- II. HSQA administrative staff shall approve FBI background workflows and User Defined Fields (UDFs) in the licensing and discipline database. This allows the Board staff to proceed with licensure. In cases involving convictions, administrative staff shall verify and match convictions with court documents and forward them to Board staff.
- III. When the applicant has answered “no” to any potential disqualifying question in the personal data section and staff find evidence that the conduct occurred, Board licensing staff will send a deficiency email to the applicant requesting supporting documents for the conduct. These include copies of court documents, judgements, and the applicant’s statement of explanation. Board licensing staff will then refer the application to the Case Management Team (CMT) for a determination, considering if the conduct amounts to material misrepresentation.
- IV. Staff may approve applications in the following situations:
 - A. For applicants with stated medical conditions, which fall under the Americans with Disabilities Act, where the applicant states they can practice with reasonable skill and safety, and there are no limitations or impairments, or the condition is controlled or alleviated with medication.
 - B. For applicants with action taken in another state, where the applicant has complied with all conditions and has been reinstated, holding a current unencumbered license.
 - C. For applicants named in a malpractice, hospital or civil suit where negligence was not established.
 - D. For a single state license with a single misdemeanor or gross misdemeanor conviction according to Attachment A, *Exception Applications*.

Exception applications not meeting these criteria will be forwarded to CMT for review and a decision to approve, approve with conditions, or deny.

- V. CMT considers the following non-exclusive list of factors in decision making:
 - A. The seriousness of the conviction and the facts that led to it.
 - B. The length of time since the conviction.
 - C. The age and maturity of the applicant when the offense(s) occurred.

- D. Whether the applicant has made any required restitution.
- E. The activities of the applicant since the conviction.

VI. The Board cannot issue a multistate (MSL) credential if the applicant has *any* felony conviction, no matter how old. For misdemeanor convictions, CMT determines whether that conviction *relates to the practice* of nursing and should be a basis for denial of the application or granting a limited license. Whether an act relates to the practice of a profession is not limited to acts committed during the care of a patient. It includes acts indicating unfitness to bear the responsibilities of, and to enjoy the privileges of, a profession. *Haley v. Medical Disciplinary Board*, 117 Wash.2d 720, 731 (1991). A professional disciplinary action “is taken for two purposes: to protect the public, and to protect the standing of the . . . profession in the eyes of the public.” *In re Kindschi*, 52 Wash.2d 8,11 (1958).



Exceptions may be made based on individual circumstances