

**TITLE 22 .EXAMINING BOARDS
PART 15. TEXAS STATE BOARD OF PHARMACY
CHAPTER 281. ADMINISTRATIVE PRACTICE AND PROCEDURES
SUBCHAPTER C. DISCIPLINARY GUIDELINES**

§281.64. Sanctions for Applicants with Criminal Offenses.

(a) The guidelines for disciplinary sanctions apply to criminal convictions and to deferred adjudication community supervisions or deferred dispositions, as authorized by the Act, for applicants for all types of licenses and registrations issued by the board. The board considers criminal behavior to be highly relevant to an individual's fitness to engage in pharmacy practice.

(b) The sanctions imposed by the guidelines can be used in conjunction with other types of disciplinary actions, including administrative penalties, as outlined in this section.

(c) The board has determined that the nature and seriousness of certain crimes outweigh other factors to be considered in Section 281.63(g) and necessitate the disciplinary action listed below. The following sanctions apply to applicants with the criminal offenses as described below:

(1) Criminal offenses which require the individual to register with the Department of Public Safety as a sex offender under Chapter 62, Code of Criminal Procedure - denial;

(2) Felony offenses:

(A) Drug-related offenses, such as those listed in Chapter 481 or 483, Health and Safety Code:

(i) Offenses involving manufacture, delivery, or possession with intent to deliver, fraud, or theft of drugs:

(I) Currently on probation - denial;

(II) 0-5 years since conviction - denial;

(III) 6-10 years since conviction - denial;

(IV) 11-20 years since conviction - denial;

(V) Over 20 years since conviction - 5 years probation;

(ii) Offenses involving possession:

(I) Currently on probation - denial;

(II) 0-5 years since conviction - evaluation by a mental health professional indicating the individual is safe to engage in pharmacy practice and 5 years probation;

(III) 6-10 years since conviction - evaluation by a mental health professional indicating the individual is safe to engage in pharmacy practice and 3 years probation;

(IV) 11-20 years since conviction - 2 years probation;

(V) Over 20 years since conviction - 1 year probation;

(B) Offenses involving sexual contact or violent acts, or offenses considered to be felonies of the first degree under the Texas Penal Code:

(i) Currently on probation - denial;

(ii) 0-5 years since conviction - denial;

(iii) 6-10 years since conviction - denial;

(iv) 11-20 years since conviction - 5 years probation;

(v) Over 20 years since conviction - 1 year probation;

(C) Other felony offenses:

(i) Currently on probation - denial;

(ii) 0-5 years since conviction - 5 years probation;

(iii) 6-10 years since conviction - 3 years probation;

(iv) 11-20 years since conviction - 2 years probation;

(v) Over 20 years since conviction - 1 year probation;

(3) Misdemeanor offenses:

(A) Drug-related offenses, such as those listed in Chapter 481 or 483, Health and Safety Code:

(i) Offenses involving manufacture, delivery, or possession with intent to deliver, fraud, or theft of drugs:

(I) Currently on probation - denial;

(II) 0-10 years since conviction - 5 years probation;

(III) Over 10 years since conviction - 3 years probation;

(ii) Offenses involving possession:

(I) 0-5 years since conviction - evaluation by a mental health professional indicating the individual is safe to engage in pharmacy practice and 5 years probation;

(II) 6-10 years since conviction - evaluation by a mental health professional indicating the individual is safe to engage in pharmacy practice and 3 years probation;

(B) Intoxication and alcoholic beverage offenses as defined in the Texas Penal Code, if two such offenses occurred in the previous ten years

(i) 0-5 years since conviction - evaluation by a mental health professional indicating the individual is safe to engage in pharmacy practice and 5 years probation;

(ii) 6-10 years since conviction - evaluation by a mental health professional indicating the individual is safe to engage in pharmacy practice and 3 years probation;

(C) Other misdemeanor offenses involving moral turpitude:

(i) 0-5 years since conviction - 2 years probation;

(ii) 6-10 years since conviction - reprimand;

(d) When an applicant has multiple criminal offenses or other violations, the board shall consider imposing additional more severe types of disciplinary sanctions, as deemed necessary.

(e) An applicant who suffers from an impairment as described by Section 565.001(a)(4) or (7) or Section 568.003(a)(5), may provide mitigating information including treatment, counseling, and monitoring in order to mitigate the sanctions imposed.

Source Note: The provisions of this §281.64 adopted to be effective September 3, 2006, 31 TexReg 6722; amended to be effective March 25, 2007, 32 TexReg 1508