

**Consideration of Proposed Amendments to 22 Texas Administrative Code
§213.28, Relating to Licensure of Individuals with Criminal History, including the
Board's Disciplinary Guidelines for Criminal Conduct**

Background: House Bill (HB) 1899 was enacted by the 86th Texas Legislature and became effective September 1, 2019. HB 1899 added Subchapter B to the Texas Occupations Code Chapter 108. Subchapter B applies to health care professionals, including nurses under the Texas Occupations Code Chapter 301.

Pursuant to HB 1899, the Board is required to deny/revoke the licensure of an individual who: (1) is required to register as a sex offender; (2) has been previously convicted of or placed on deferred adjudication for the commission of a felony offense involving the use or threat of force; or (3) has been previously convicted of or placed on deferred adjudication for the commission of certain offenses committed in the course of providing services within the scope of the individual's license and in which the victim of the offense was a patient of the individual. SB 1899 also simultaneously amended the Code of Criminal Procedure Article 42.0175 to require these affirmative findings to be included in criminal judgments and provided to licensing agencies.

An individual may be eligible for licensure/reinstatement of licensure if the conviction or deferred adjudication is reversed, set aside, or vacated on appeal, or when the time period expires for which the individual's sex offender registration was originally required.

Attachment "A" contains proposed amendments that are necessary to implement these statutory requirements.

Board Action: Move to approve the proposal of amendments to 22 Texas Administrative Code §213.28, relating to *Licensure of Individuals with Criminal History*, as set out in Attachment "A", with authority for the General Counsel to make editorial changes as necessary to clarify rule and Board intent and to comply with the formatting requirements of the *Texas Register*. If no negative comments and no request for a public hearing are received, move to adopt the amendments to 22 Texas Administrative Code §213.28, relating to *Licensure of Individuals with Criminal History*, as proposed.

Attachment “A”

§213.28. Licensure of Individuals with Criminal History.

(a) – (b) (No change.)

(c) (*see changes to Disciplinary Matrix.*)

(d) – (j) (No change.)

(k) Bars to Licensure.

(1) – (2) (No change.)

(3) Pursuant to the Texas Occupations Code Chapter 108, Subchapter B, the Board is required to deny or revoke, as applicable, the license of an individual who:

(A) is required to register as a sex offender under the Code of Criminal Procedure Chapter 62;

(B) has been previously convicted of or placed on deferred adjudication community supervision for the commission of a felony offense involving the use or threat of force; or

(C) has been previously convicted of or placed on deferred adjudication community supervision for the commission of an offense:

(i) under the Texas Penal Code §§22.011, 22.02, 22.021, or 22.04 or an offense under the laws of another state or federal law that is equivalent to an offense under one of these sections;

(ii) committed when the individual held a license as a health care professional in this state or another state and in the course of providing services within the scope of the individual’s license; and

(iii) in which the victim of the offense was a patient of the individual.

An individual's eligibility for reapplication or reinstatement of licensure is governed by the Texas Occupations Code Chapter 108, Subchapter B.

(l) – (n) (No change.)

AN ACT

relating to the revocation or denial of certain health care professional licenses and the reporting of the grounds for revocation or denial.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 42.01, Code of Criminal Procedure, is amended by adding Section 14 to read as follows:

Sec. 14. In addition to the information described by Section 1, the judgment must reflect affirmative findings entered pursuant to Article 42.0175.

SECTION 2. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0175 to read as follows:

Art. 42.0175. FINDING REGARDING CERTAIN HEALTH CARE PROFESSIONALS; NOTIFICATION. (a) In this article, "health care professional," "license," and "licensing authority" have the meanings assigned by Section 108.051, Occupations Code.

(b) In the trial of an offense, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that at the time of the offense the defendant held a license as a health care professional and the offense is:

(1) an offense for which the defendant is required to register as a sex offender under Chapter 62;

(2) a felony offense and the defendant used force or

1 threat of force in the commission of the offense; or

2 (3) an offense under Section 22.011, 22.02, 22.021, or
3 22.04, Penal Code, and:

4 (A) the victim of the offense was a patient of the
5 defendant; and

6 (B) the offense was committed in the course of
7 providing services within the scope of the defendant's license.

8 (c) Not later than the fifth day after the date the
9 defendant is convicted or granted deferred adjudication on the
10 basis of an offense described by Subsection (b)(1), (2), or (3), the
11 clerk of the court in which the conviction or deferred adjudication
12 is entered shall provide written notice of the conviction or
13 deferred adjudication, including the offense on which the
14 conviction or deferred adjudication was based, to:

15 (1) the licensing authority that issued the
16 defendant's license as a health care professional; and

17 (2) the Department of Public Safety.

18 SECTION 3. Article 62.005(e), Code of Criminal Procedure,
19 is amended to read as follows:

20 (e) The department shall provide a licensing authority with
21 notice of any person required to register under this chapter who
22 holds or seeks a license that is issued by the authority. The
23 department shall provide the notice required by this subsection as
24 the applicable licensing information becomes available through
25 notification by a court clerk under Article 42.0175, a parole panel
26 under Section 508.1864, Government Code, or the person's
27 registration or verification of registration.

1 SECTION 4. Subchapter F, Chapter 508, Government Code, is
2 amended by adding Section 508.1864 to read as follows:

3 Sec. 508.1864. NOTIFICATION TO DEPARTMENT OF PUBLIC SAFETY
4 AND LICENSING AUTHORITY. (a) In this section, "health care
5 professional," "license," and "licensing authority" have the
6 meanings assigned by Section 108.051, Occupations Code.

7 (b) A parole panel that knows an inmate holds or has
8 submitted an application for a license as a health care
9 professional shall immediately notify the Department of Public
10 Safety and the applicable licensing authority if the parole panel
11 requires the inmate as a condition of release on parole or to
12 mandatory supervision to register as a sex offender under Chapter
13 62, Code of Criminal Procedure.

14 SECTION 5. The heading to Chapter 108, Occupations Code, is
15 amended to read as follows:

16 CHAPTER 108. LICENSE SUSPENSION OR REVOCATION REQUIRED [~~FOR CERTAIN~~
17 ~~DRUG FELONY CONVICTIONS~~]

18 SECTION 6. Chapter 108, Occupations Code, is amended by
19 designating Sections 108.001 through 108.003 as Subchapter A and
20 adding a subchapter heading to read as follows:

21 SUBCHAPTER A. SUSPENSION OR REVOCATION OF PHYSICIAN LICENSE FOR
22 CERTAIN DRUG FELONY CONVICTIONS

23 SECTION 7. Section 108.001, Occupations Code, is amended to
24 read as follows:

25 Sec. 108.001. DEFINITION. In this subchapter [~~chapter~~],
26 "board" means the Texas [~~State Board of~~] Medical Board [~~Examiners~~].

27 SECTION 8. Chapter 108, Occupations Code, is amended by

1 adding Subchapter B to read as follows:

2 SUBCHAPTER B. AUTOMATIC DENIAL OR REVOCATION OF HEALTH CARE

3 PROFESSIONAL LICENSE

4 Sec. 108.051. DEFINITIONS. In this subchapter:

5 (1) "Health care professional" means:

6 (A) a dentist licensed under Subtitle D;

7 (B) a dental hygienist licensed under Chapter

8 262;

9 (C) a hearing instrument fitter and dispenser

10 licensed under Chapter 402;

11 (D) a nurse, including an advanced practice

12 registered nurse, licensed under Chapter 301;

13 (E) an occupational therapist licensed under

14 Chapter 454;

15 (F) an optometrist or therapeutic optometrist

16 licensed under Chapter 351;

17 (G) a pharmacist licensed under Subtitle J;

18 (H) a physical therapist licensed under Chapter

19 453;

20 (I) a physician licensed under Subtitle B;

21 (J) a physician assistant licensed under Chapter

22 204;

23 (K) a podiatrist licensed under Chapter 202;

24 (L) a psychologist licensed under Chapter 501;

25 (M) a social worker licensed under Chapter 505;

26 and

27 (N) a speech-language pathologist or audiologist

1 licensed under Chapter 401.

2 (2) "License" means a license, certificate,
3 registration, permit, or other authorization that:

4 (A) is issued by a licensing authority; and

5 (B) a person must obtain to practice or engage in
6 a particular business, occupation, or profession.

7 (3) "Licensing authority" means a department,
8 commission, board, office, or other agency of this state that
9 issues a license.

10 Sec. 108.052. DENIAL OF LICENSE. A licensing authority
11 shall deny an application for a license as a health care
12 professional for an applicant who:

13 (1) is required to register as a sex offender under
14 Chapter 62, Code of Criminal Procedure;

15 (2) has been previously convicted of or placed on
16 deferred adjudication community supervision for the commission of a
17 felony offense involving the use or threat of force; or

18 (3) has been previously convicted of or placed on
19 deferred adjudication community supervision for the commission of
20 an offense:

21 (A) under Section 22.011, 22.02, 22.021, or
22 22.04, Penal Code, or an offense under the laws of another state or
23 federal law that is equivalent to an offense under one of those
24 sections;

25 (B) committed:

26 (i) when the applicant held a license as a
27 health care professional in this state or another state; and

1 (ii) in the course of providing services
2 within the scope of the applicant's license; and

3 (C) in which the victim of the offense was a
4 patient of the applicant.

5 Sec. 108.053. REVOCATION OF LICENSE. (a) The license of a
6 health care professional is revoked if the health care professional
7 is:

8 (1) convicted or placed on deferred adjudication
9 community supervision for an offense described by Section
10 108.052(2) or (3); or

11 (2) required to register as a sex offender under
12 Chapter 62, Code of Criminal Procedure.

13 (b) The licensing authority shall revoke a license and
14 update the authority's records to reflect the revocation under
15 Subsection (a) immediately on receiving notification:

16 (1) by a court under Article 42.0175, Code of Criminal
17 Procedure, that the court made a finding under that article; or

18 (2) by a parole panel under Section 508.1864,
19 Government Code, that the license holder is required to register as
20 a sex offender under Chapter 62, Code of Criminal Procedure, as a
21 condition of release on parole or to mandatory supervision.

22 Sec. 108.054. REAPPLICATION. A person whose license
23 application is denied under this subchapter:

24 (1) based on a conviction or placement on deferred
25 adjudication community supervision for an offense described by
26 Section 108.052(2) or (3) may reapply for the license if the
27 conviction or deferred adjudication is reversed, set aside, or

1 vacated on appeal; or

2 (2) based on a requirement to register as a sex
3 offender under Chapter 62, Code of Criminal Procedure, may reapply
4 for the license after the expiration of the period for which the
5 person is required to register.

6 Sec. 108.055. REINSTATEMENT. A person whose license is
7 revoked under this subchapter:

8 (1) based on a conviction or placement on deferred
9 adjudication community supervision for an offense described by
10 Section 108.052(2) or (3) may apply for reinstatement of the
11 license with the appropriate licensing authority if the conviction
12 or deferred adjudication is reversed, set aside, or vacated on
13 appeal; or

14 (2) based on a requirement to register as a sex
15 offender under Chapter 62, Code of Criminal Procedure, may apply
16 for reinstatement of the license after the expiration of the period
17 for which the person is required to register.

18 SECTION 9. Section 14, Article 42.01, Code of Criminal
19 Procedure, and Article 42.0175, Code of Criminal Procedure, as
20 added by this Act, apply only to a judgment of conviction entered on
21 or after the effective date of this Act.

22 SECTION 10. Section 508.1864, Government Code, as added by
23 this Act, applies only to a person who is released on parole or to
24 mandatory supervision on or after the effective date of this Act. A
25 person who is released on parole or to mandatory supervision before
26 the effective date of this Act is governed by the law in effect at
27 the time of release, and the former law is continued in effect for

1 that purpose.

2 SECTION 11. Section 108.052, Occupations Code, as added by
3 this Act, applies only to an application for a license as a health
4 care professional, as defined by Section 108.051, Occupations Code,
5 as added by this Act, pending on or submitted on or after the
6 effective date of this Act.

7 SECTION 12. This Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I certify that H.B. No. 1899 was passed by the House on May 3, 2019, by the following vote: Yeas 138, Nays 2, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1899 was passed by the Senate on May 22, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: -----

Date

Governor

Disciplinary Guidelines for Criminal Conduct

Figure 22 TAC §213.28(c)

OFFENSE	PENALTY <u>F = Felony</u> <u>M=Misdemeanor</u>	PENAL CODE SECTION <u>(or Crim. Pro. ch. 62)</u>	<u>NOTES</u>
*Abandonment/ Endangerment of a Child	F	22.041	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Agree to Abduct Child for Remuneration: Younger than 18	F	25.031	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Aiding Suicide: Serious Bodily Injury/Death	F	22.08	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Assault, Aggravated	F	22.02	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Attempt, Conspiracy, or Solicitation of ch. 62 offense	F, M	ch. 62	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Burglary (if punishable under Penal Code §30.02(d) and ch. 62 offense)	F	ch. 62 (§62.001(5)(D))	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Capital Murder	F	19.03	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Child Pornography, Possession or Promotion	F	43.26(a),(e) (ch. 62)	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Continuous Sexual Abuse of Young Child or Disabled Individual	F	21.02	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Indecency w/Child	F	21.11 (ch. 62)	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Indecent exposure x 2, if meets ch. 62 requirements	M	21.08 (ch. 62)	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Injury to Child/Elderly/Disabled	F	22.04	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Kidnapping	F	20.03, 20.04 (ch. 62)	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.

OFFENSE	PENALTY F = Felony M=Misdemeanor	PENAL CODE SECTION (or Crim. Pro. ch. 62)	<u>NOTES</u>
*Manslaughter	F	19.04	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Murder	F	19.02	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Offenses for Which Registration as a Sex Offender is Required Under Ch. 62	F, M	§62.001(5)	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Online Solicitation of a Minor	F	33.021(b),(c), (f); (ch. 62)	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Prostitution, Compelling	F	43.05 (ch. 62)	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Protective Order, Violation	F	25.07, 25.071	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Robbery	F	29.02	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Robbery, Aggravated	F	29.03	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Sale or Purchase of a Child	F	25.08	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Sexual Assault	F	22.011 (ch. 62)	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Sexual Assault, Aggravated	F	22.021 (ch. 62)	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Sexual Conduct, Prohibited	F	25.02 (ch. 62)	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Sexual Performance by Child	F	43.24(d), 43.25(b), (ch. 62)	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.
*Unlawful Restraint	F	20.02	If on or after September 1, 2005, revocation/denial of licensure is required by Tex. Occ. Code §301.4535.

OFFENSE	PENALTY F = Felony M=Misdemeanor	PENAL CODE SECTION (or Crim. Pro. ch. 62)	<u>NOTES</u>
Aggravated Perjury: Offense Against Public Administration that involves knowingly engaging in deceptive and dishonest conduct by making a false statement in connection with an official proceeding.	F	37.03	
Arson: Offense Against Property that involves intent to destroy or damage property and involves knowledge that financial or personal harm may result and/or includes the reckless endangerment of a person's life or safety.	F	28.02(d)	
Assault: Offense Against the Person that involves intentionally, knowingly, or recklessly causing bodily injury to another person.	F	22.01	
Bribery: Offense Against Public Administration that involves intentionally or knowingly conferring, agreeing to confer, soliciting, or accepting benefits as consideration for a person's vote, decision, or recommendation.	F	36.02	
Burglary: Offense Against Property that involves entering another's property with intent to commit theft or harm to another person.	F	30.02	
Burglary of Vehicles: Offense Against Property that involves breaking into a vehicle with the intent to commit a felony or theft.	F	30.04	
Credit Card or Debit Card Abuse: Offense Against Property that involves an intent to obtain a benefit fraudulently through the use of a credit or debit card that is expired or revoked, has not been issued to him/her, and/or without the consent of the cardholder.	F	32.31	
Criminal Attempt or Conspiracy: Inchoate (Preparatory) Offense for an offense listed in Guidelines.	F	15.01, 15.02	

OFFENSE	PENALTY F = Felony M=Misdemeanor	PENAL CODE SECTION (or Crim. Pro. ch. 62)	<u>NOTES</u>
Criminally Negligent Homicide: Offense Against the Person that involves behavior where the offender engages in conduct that falls below the standard required of ordinary people and a death results.	F	19.05	
Cruelty to Animals: Offense Against Public Order and Decency that involves the intentional or knowing infliction of torture on, neglect of, or unreasonable abandonment of a domesticated or captured animal.	F	42.09	
Driving While Intoxicated Offenses. Offenses Against Public Health, Safety, and Morals that by the repetitiveness of the conduct indicates a possible issue with substance abuse or chemical dependency which may affect the nurse's ability to safely perform his/her duties and/or threaten public safety.	F	49.09	
Driving While Intoxicated With Child Passenger: Offense Against Public Health, Safety, and Morals that involves operating a motor vehicle while intoxicated when the vehicle is occupied by a passenger under the age of 15.	F	49.045	
Drug Violations: Crimes involving drugs that include the possession, misappropriation and misuse of controlled substances as regulated by Chs. 481, 482 and 483, Health & Safety Code.	F	Health & Safety Code Chs. 481, 482, 483	
Evading Arrest or Detention: Offense Against Public Administration that involves intentionally fleeing from a known police officer or federal investigator who is lawfully attempting to detain or arrest him/her.	F	38.04	
False Report or Statement: Offense Against Property that involves intentionally or knowingly making a false material representation to obtain money or property.	F, M	32.32, 42.06	
Forgery: Offense Against Property that involves an intent to defraud or harm another.	F, M	32.21	

OFFENSE	PENALTY F = Felony M=Misdemeanor	PENAL CODE SECTION (or Crim. Pro. ch. 62)	<u>NOTES</u>
Fraudulent Destruction, Removal, or Concealment of Writing: Offense Against Property that involves an intent to defraud or harm another through the destruction, removal, concealment, substitution, or alteration of a writing that impairs the use of the writing.	F, M	32.47	
Fraudulent Use of Possession of Identifying Information: Offense Against Property that involves an intent to defraud or harm another through the possession, transfer, or use of another person's identifying information without consent.	F	32.51	
Hindering Apprehension or Prosecution: Offense Against Public Administration that involves intentionally hindering the arrest, prosecution, conviction, or punishment of another person by harboring, concealing, aiding, or warning the other person.	F	38.05	
Improper Photography or Visual Recording: Offense Against the Person that involves engaging in the secret photography of another person for purposes of sexual gratification.	F	21.15	
Improper Relationship between Educator and Student: Offense Against the Person that involves a teacher engaging in sexual contact with a primary or secondary school student.	F	21.12	
Insurance Fraud: Claim > \$500: Offense Against Property that involves the intent to defraud or deceive another of at least \$500 by using information known to contain false or misleading material information.	F	35.02(c)	
Insurance Fraud: Claim ≤ \$500: Offense Against Property that involves an intent to defraud or deceive another by using information known to contain false or misleading material information, which by its own definition is deemed unprofessional or dishonorable conduct as defined in TOC §301.452(b)(10).	M	35.02 (c)(1)-(3)	

OFFENSE	PENALTY F = Felony M=Misdemeanor	PENAL CODE SECTION (or Crim. Pro. ch. 62)	<u>NOTES</u>
Insurance Fraud: Intent to Defraud: Offense Against Property that involves knowingly making a false material representation to an insurance company with the intent of defrauding the insurance company of at least \$1500.00.	F	35.02(a-1). (d)	
Interference with Emergency Request for Assistance	F	42.062	
Intoxication Assault: Offense Against Public Health, Safety, and Morals that causes serious bodily injury to another person due to the person's own intoxicated state while operating a vehicle, aircraft, or amusement ride.	F	49.07	
Intoxication Manslaughter: Offense Against Public Health, Safety, and Morals that causes the death of another person due to the person's intoxicated state while operating a vehicle, aircraft, or amusement ride.	F	49.08	
Medicaid Fraud > \$1500: Offense Against Property that involves knowingly making a false material representation with the intent of recovering Medicaid payments of at least \$1500.00. The offense may also involve seeking certification of a hospital, a nursing facility, skilled nursing facility, hospice, an intermediate care facility for the mentally retarded, assisted living facility, or a home health agency. See Note At End of Document.	F	35A.02(b)(4)-(7)	
Medicaid Fraud < \$1500: Offense Against Property that involves knowingly making a false material representation with the intent of recovering Medicaid payments of less than \$1500.00 which would not be authorized but for the misrepresentations. The	M	35A.02(b)(2)-(3)	

OFFENSE	PENALTY <u>F = Felony</u> <u>M=Misdemeanor</u>	PENAL CODE SECTION <u>(or Crim. Pro. ch. 62)</u>	<u>NOTES</u>
<p>offense may also involve seeking certification of a hospital; a nursing facility, skilled nursing facility; hospice; an intermediate care facility for the mentally retarded; assisted living facility; or a home health agency.</p> <p>See Note At End of Document.</p>			
<p>Misapplication of Fiduciary Property or Property of Financial Institution: Offense Against Property that involves an intentional, knowing, or reckless misapplication of property that he/she holds as a fiduciary for a financial institution.</p>	F, M	32.45	
<p>Money Laundering ≥ \$1500: Offense Against Property that involves knowingly engaging in a criminal enterprise to conceal, invest or possess at least \$1500.00 known to be the proceeds of illegal activity.</p>	F	34.02(e)(1)-(4)	
<p>Obscenity, Participates/Wholesale Promotion: Offense Against Public Order and Decency that involves the intent to wholesale promote any obscene material, obscene device, or activity.</p>	F	43.23	
<p>Obstruction or Retaliation: Offense Against Public Administration that involves intentionally or knowingly harming or threatening to harm another in retaliation for that person's lawful report of a crime or status as a witness, informant, or public.</p>	F	36.06	
<p>Perjury: Offense Against Public Administration that involves making a false statement under oath with the intent to deceive.</p>	M	37.02	
<p>Prohibited Substances and Items in Correctional Facility: Offense Against Public Administration that involves possessing and/or providing prohibited substances to a person confined in a correctional facility.</p>	F	38.11	

OFFENSE	PENALTY F = Felony M=Misdemeanor	PENAL CODE SECTION (or Crim. Pro. ch. 62)	<u>NOTES</u>
Prohibited Weapon: Offense Against Public Health, Safety, and Morals that involves the intentional or knowing possession, manufacture, transport, repair, or sale of restricted weapons.	F	46.05	
Prostitution, Prostitution or Promotion of, or Aggravated Promotion: Offense Against Public Order and Decency involving offering/repeatedly offering to engage in sexual conduct for a fee or promoting others to engage in sex for a fee.	F	43.02, 43.04	
Resisting Arrest, Use of Deadly Weapon: Offense Against Public Administration that involves using a deadly weapon against another person.	F	38.03(d)	
Securing Execution of Document by Deception: Offense Against Property that involves an intent to defraud or harm another by deception by causing another person to sign, execute, or file a document that affects the person's property or pecuniary interests.	F, M	32.46	
Stalking: Offense Against Public Order and Decency that involves a person knowingly engaging in repetitive conduct that is intended to be threatening in nature and imposing a fear of bodily injury or death on another person.	F	42.072(b)	
Tampering with Government Record: Offense Against Public Administration that requires an intent to defraud or harm another by destroying or falsifying a government record.	F, M	37.10	

OFFENSE	PENALTY F = Felony M=Misdemeanor	PENAL CODE SECTION (or Crim. Pro. ch. 62)	<u>NOTES</u>
Tampering With or Fabricating Physical Evidence: Offense Against Public Administration that involves altering, destroying, concealing, or falsely presenting a record with the intent to impair its use or availability during an investigation or proceeding and/or alter the outcome of the investigation or proceeding.	F, M	37.09	
Tampering with Witness: Offense Against Public Administration that involves coercing or offering, conferring, or agreeing to confer a benefit on a witness or potential witness with the intent to influence the witness to provide false testimony, to withhold testimony, or to elude the legal process.	F	36.05	
Terroristic Threat: Offense Against Persons that involves threatening violence to persons or property.	F, M	22.07	
Theft ≤ \$1499: Offense Against Property that involves an intent to deprive person of his/her property without his/her consent.	M	31.03(e)(1) - (3)	
Theft ≥ \$1500: Offense Against Property that involves an intent to deprive person of his/her property without his/her consent.	F	31.03(e)(4)-(7)	
Theft of Service: Offense Against Property that involves an intent to avoid payment for services and intentionally or knowingly secures the services by deception, threat, diversion, or false token.	F, M	31.04	
Trafficking of Persons: Offense Against the Person that involves knowingly trafficking another person with the intent that the other person engage in forced labor or services and/or trafficking another person and causing the person to engage in certain criminal acts through fraud, coercion, or force.	F	20A.02	
Vehicle, Unauthorized Use: Offense Against Property that involves an intentional or knowing act to deprive a person of his/her vehicle without his/her consent.	F	31.07	

OFFENSE	PENALTY F = Felony M=Misdemeanor	PENAL CODE SECTION (or Crim. Pro. ch. 62)	NOTES
Violation of Civil Rights of Person in Custody/Improper Sexual Acts With a Person In Custody: Offense Against Public Administration that involves intentionally denying or impeding a another person in custody at a correctional facility a lawful right, privilege, or immunity and/or engaging in sexual conduct with a person in custody at a correctional or youth facility.	F	39.04	

* In accordance with Texas Occupations Code §301.4535, licensees or applicants for licensure receiving judicial orders for these designated offenses on or after September 1, 2005, shall not be licensed, shall be revoked, and/or shall not be renewed and not considered for re-licensure until at least the fifth anniversary following release from probation or community service has occurred. This does not prevent a nurse or applicant for licensure from exercising any right or privilege to have a formal hearing as established by virtue of Texas Occupations Code §301.454(c).

****In accordance with Texas Occupations Code Chapter 108, Subchapter B, the Board is required to deny or revoke, as applicable, the license of an individual who: (A) is required to register as a sex offender under the Code of Criminal Procedure Chapter 62; (B) has been previously convicted of or placed on deferred adjudication community supervision for the commission of a felony offense involving the use or threat of force; or (C) has been previously convicted of or placed on deferred adjudication community supervision for the commission of an offense: (i) under the Texas Penal Code §§22.011, 22.02, 22.021, or 22.04 or an offense under the laws of another state or federal law that is equivalent to an offense under one of these sections; (ii) committed when the individual held a license as a health care professional in this state or another state and in the course of providing services within the scope of the individual's license; and (iii) in which the victim of the offense was a patient of the individual. An individual's eligibility for reapplication or reinstatement of licensure will be governed by the Texas Occupations Code Chapter 108, Subchapter B.**

Note: Licensees may be excluded from working in various federally-funded facilities for convictions for program-related fraud and patient abuse, licensing board actions and default on Health Education Assistance Loans. The Office of Inspector General states that “[n]o payment will be made by any Federal health care program for any items or services furnished, ordered, or prescribed by an excluded individual or entity. Federal health care programs include Medicare, Medicaid, and all other plans and programs that provide health benefits funded directly or indirectly by the United States (other than the Federal Employees Health Benefits Plan). For exclusions implemented prior to August 4, 1997, the exclusion covers the following Federal health care programs: Medicare (Title XVIII), Medicaid (Title XIX), Maternal and Child Health Services Block Grant (Title V), Block Grants to States for Social Services (Title XX) and State Children's Health Insurance (Title XXI) programs.” For more information, see <http://www.oig.hhs.gov/fraud/exclusions/aboutexclusions.html>, and 1 Tex. Admin. Code §§371.1655 & 371.1657 (mandatory and permissive exclusions from Medicaid and Title V, XIX, XX, and CHIP programs by the Texas Health and Human Services Commission, Office of Inspector General).

The Board's recommendation regarding licensure is independent of any decision by an employer or potential employer to hire a person with a criminal history.