

Criminal Background Frequently Asked Questions

Q: Why does the Arkansas State Board of Nursing (ASBN) ask questions regarding criminal conviction(s)?

A: According to the ASBN *Nurse Practice Act* (Sub Chapter Section 3- 17-87-312, no person shall be eligible to receive or hold a license issued by the board if that person has pleaded guilty, nolo contendere, or been found guilty of any of the offenses (as identified in Arkansas Code, ACA 17-87-312).

The law applies to licensed nurses as well as those individuals seeking licensure. This includes new graduates, nurses applying for licensure from other countries or states and nurses applying for advanced practice. Additional information is available by accessing the *Nurse Practice Act* (Sub Chapter Section 3- 17-87-312) at http://www.arsbn.arkansas.gov/lawsRules/Documents/SUBCHAPTER_3.pdf

Q: What does this mean if I want to become a nurse?

A: An individual that has pleaded guilty, nolo contendere, or been found guilty of any of offenses (as identified in Arkansas Code, Act 1208 of 1999 Legislative Session- ACA 17-87-312) may not be eligible to take the National Council Licensure Examination- Practical Nurse (NCLEX - PN[®]), National Council Licensure Examination –Registered Nurse (NCLEX-RN[®]). Certain offenses are considered a permanent bar to licensure in Arkansas. An individual interested in becoming a nurse in Arkansas should review the *Nurse Practice Act* (Sub Chapter Section 3- 17-87-312) at http://www.arsbn.arkansas.gov/lawsRules/Documents/SUBCHAPTER_3.pdf

Q: What criminal offenses do I have to report to the Arkansas State Board of Nursing?

A: You are required to report all misdemeanor and felony convictions that occurred in Arkansas or any other state or jurisdiction, regardless of when they occurred, even if adjudication is withheld. DWIs and similar offenses must be reported. (Traffic violations do not constitute a crime). An offense(s) must be reported even if a suspended imposition of sentence occurred, or is a juvenile, sealed or expunged offense.

Q: Can I be admitted to a nursing program if I have a conviction?

A: ASBN does not determine the admission requirements for nursing programs. Please refer to the admission requirements of the program that you are interested in attending. Be aware that despite completion of a nursing program, an individual that has pleaded guilty, nolo contendere, or been found guilty of any of offenses (as identified in Arkansas Code, Act 1208 of 1999 Legislative Session- ACA 17-87-312) may not be eligible to take the National Council Licensure Examination- Practical Nurse (NCLEX - PN[®]), National Council Licensure Examination –Registered Nurse (NCLEX-RN[®]). Certain offenses are considered a permanent bar to licensure in Arkansas; an individual with one or more of these offense(s) are not eligible to apply for a waiver. An individual interested in becoming a nurse in Arkansas should review the *Nurse Practice Act* (Sub Chapter Section 3- 17-87-312) at http://www.arsbn.arkansas.gov/lawsRules/Documents/SUBCHAPTER_3.pdf

Q: I want to attend nursing school, can I find out before I enroll if I will be able to take the licensure examination?

A: No. ASBN statutory authority in ACA §17-87-312 is for licensees or "applicants" for licensure. Potential students should review the specific statute number of your offense(s) as compared to the offenses listed in the ASBN *Nurse Practice Act*. Despite completion of a nursing program, there is no guarantee that a waiver will be granted to an individual with any of offense(s) listed in the above statute. Certain

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offenses are considered a permanent bar to licensure in Arkansas; an individual with one or more of these offense(s) are not eligible to apply for a waiver and cannot be licensed.

Q: What if I have plead guilty, nolo contendere, or been found guilty of a crime that is listed in the ASBN Nurse Practice Act?

A. If your offense is listed, you may not be eligible to take the National Council Licensure Examination- Practical Nurse (NCLEX - PN[®]), National Council Licensure Examination –Registered Nurse (NCLEX-RN[®]) or hold licensure in Arkansas.

ACA § 17-87-312 provides the applicant an opportunity to request a waiver of eligibility criteria related to a criminal background in certain circumstances depending on the offense(s). However, certain offense(s) are considered a permanent bar to licensure in Arkansas and an individual with one or more of these offense(s) are not eligible to apply for a waiver.

Q: Are there any crimes that are considered a permanent bar to licensure?

A. Yes. There are certain offenses identified as a permanent disqualification to licensure in Arkansas. If the offense is identified as a permanent disqualification, an individual does not have the ability to request a waiver from the Board. An individual should review the ASBN *Nurse Practice Act* (Sub Chapter section 3- 17-87-312) at http://www.arsbn.arkansas.gov/lawsRules/Documents/SUBCHAPTER_3.pdf

Q: I have offenses in my past that have been sealed or expunged. Do I have to report these to the ASBN or provide documentation?

A. Yes. Even if a record is sealed or expunged, the offenses must be disclosed to ASBN. When an individual has an offense that is sealed or expunged, a judge will issue an order to expunge or order to seal the record. If you believe that an offense has been expunged or sealed, you should confirm this with your lawyer or the court. You should have the court submit the order to seal or expungement documentation to ASBN for review. You shall mark “yes” on the examination application screening question regarding a prior conviction and provide court documentation regarding the order, judgment and restitution of the offense(s).

Q: I have an offense(s) in my past that has been dismissed, dropped or nolle prossed. Do I have to provide documentation?

A. Even if your offense(s) have been dismissed, dropped or nolle prossed, without any court ordered stipulations, it may show up on the criminal background check report and in that event you will be required to provide documentation reflecting the action. You will be required to provide documentation even if adjudication is withheld or if a suspended imposition of sentence occurred.

Q: I have offenses in my past that occurred so long ago that I cannot obtain documentation, or it is difficult to obtain the documentation, what do I need to do?

A. Documentation must be submitted to ASBN and an attempt must be made to provide required documentation. Obtaining the required documents may be challenging; however it is your responsibility to request and provide the documentation that is required for review of your case. In the event that the court states that documentation is unavailable (has been destroyed, purged, etc.), request that the court submit a statement to ASBN indicating the respective search dates and the reason documentation is unavailable.

Q: I have offenses that occurred in another state, do I need to report these?

A. Yes. All offenses, regardless of the state or jurisdiction must be reported and respective

documentation provided to ASBN.

Q: I have applied for licensure and have an ongoing charge / offense / case / probation. Will this affect my application?

A. Yes. You must complete all court ordered obligations before your case will be reviewed.

Q: I have had a criminal background check report conducted before; can this be used instead of doing a new one for ASBN?

A. No. A criminal background check conducted for another agency is not acceptable. Each first time applicant for a license issued by ASBN shall apply to the Identification Bureau of the Department of Arkansas State Police for a state and national criminal background check, to be conducted by the Federal Bureau of Investigation. Upon completion of the criminal background check, the Identification Bureau of the department of Arkansas State Police will forward your results to the ASBN.

Q: I have had a criminal background check conducted before and it never showed anything. Why does the one that ASBN conducted show something?

A. The criminal background check that is conducted by ASBN is very thorough. You should be forthcoming and honest when answering the ASBN application screening questions. Offenses may appear on the report that may not have appeared in previous reports that you have had conducted.

Q: How do I know whether I have been convicted of a crime?

A. You have been convicted of a crime if you have pled guilty to, entered a Nolo Contendere plea, or were found guilty of a criminal offense in any court. Additional variables may have determined your offense outcome; you may contact the court in the county where the offense occurred to determine whether the offense resulted in a conviction and was a misdemeanor or felony offense.

Q: I want to be a nurse but I have prior convictions, none are felonies. Can I become a nurse?

A. An individual interested in becoming a nurse in Arkansas should review the ASBN *Nurse Practice Act* (Sub Chapter Section 3- 17-87-312) at http://www.arsbn.arkansas.gov/lawsRules/Documents/SUBCHAPTER_3.pdf. Review is on a case – by – case basis and each case is individually reviewed and offense(s) that are misdemeanor(s) listed in the identified Sub Chapter can result in denial.

Q: I am an LPN and I am completing RN school, do I need to resubmit documents that I have already submitted to ASBN?

A. Typically, previously submitted documents remain on file and do not have to be resubmitted if no additional offenses have occurred. You should attach a letter to the ASBN application explaining that documentation has been previously submitted. Your application will go through the review process again. In the event that additional documentation is required, you will be contacted. The criminal background checks are valid for one year; you will be required to resubmit the criminal background checks if it has been greater than one year.

Q: I failed the NCLEX. Do I need to resubmit documents with my Rewrite Examination Application?

A. Typically, previously submitted documents remain on file and do not have to be resubmitted if no additional offenses have occurred. The licensure applicant should attach a letter to the application explaining that documentation has been previously submitted. Your application will go through the review process again. In the event that additional documentation is required, you will be contacted.

The criminal background checks are valid for one year; you will be required to resubmit the criminal background checks if it has been greater than one year.

Q: Do I need to report traffic violations?

A. No. Traffic violations (speeding, no insurance, etc.), are not required to be reported to the ASBN. DWI's and similar offenses are required to be reported. In the event that you failed to pay (FTA) or failed to appear (FTA) for traffic related offense(s) and pled guilty, nolo contendere or were convicted of this offense(s), these shall be reported and you will be required to provide documentation that reflects resolution of the offense(s).

Q: Do I need to submit a letter of explanation with my application if I have a criminal record in my background?

A. Yes. You must attach a personal, letter of explanation to the ASBN application. The self explanatory letter should identify the timeline of offense(s) and describe each offense in your own words. You should discuss specific information in the letter including but not limited to the circumstances related to the offense(s), behavior(s) that led to offense(s), and your conduct since. If applicable, you should discuss any rehabilitative efforts since the offense(s). The letter needs to be legible and may be handwritten or typed. Please sign and date the letter and submit it as identified herein.

Q: Should I mark yes to "Have you ever been convicted of a misdemeanor or felony, pled guilty or nolo contendere to any charge in any state or jurisdiction?" if I was arrested, but charges were dropped or nolle prossed without any stipulations?

A. You are not required to report charges or offenses that did not result in a conviction. However, in the event that an arrest(s), charge(s) or offense(s) appears on the criminal background check(s), you will be required to provide official court documentation that reflects that the charges have been dropped or nolle prossed.

Q: I had a conviction when I was a juvenile - but my attorney told me it was expunged from my record. Do I have to report it? If I have to report it - what documents do I have to submit?

A. Yes. In the event that your offense(s) occurred as a juvenile, you should contact the juvenile division of the court in the county where the offense(s) occurred to obtain a letter regarding the status of your offense(s). Even if a record is sealed or expunged, the offenses must be disclosed to ASBN. When an individual has an offense that is sealed or expunged, a judge will issue an order to expunge or seal the record. If you believe that an offense has been expunged or sealed, you should confirm this with your lawyer or the court.

Q: I am a new graduate and I want to go to work as soon as possible, can I have a temporary permit while my case is under review?

A. No. A temporary permit will not be issued until completion of the investigation and your eligibility has been determined.

Q: I am a new graduate; can I take the NCLEX® while my case is being reviewed?

A. No. Permission to take (Authorization to Test) the National Council Licensure Examination (NCLEX®) will not be extended until completion of the investigation and your eligibility has been determined.

Q: I am currently enrolled in a nursing program. I was recently arrested and my charges will be dropped after I complete probation. Should I submit court documents now or wait until after I complete probation?

- A. You should have closure with the court prior to your case being reviewed. Whether you apply now or after the charges are dismissed, you must still report the issue and it will be part of the investigative review. However, you will not receive a temporary permit or be approved to take the exam until after you are off of probation and have met all court stipulations. You should refer to the ACA code of the charge, to see if it falls within the list of bars to licensure (ACA 17-87-312). Following completion of probation, you will need to have the court or probation officer submit a regarding completion of your court ordered probation.
- Q: How long will it take to review my file?**
- A. Unfortunately, we are unable to provide a specific time frame to an applicant regardless of the type of case. The nature of an offense and associated variables impact the time required to review a case. Review is on a case – by – case basis and may take longer depending on the nature of your offense(s), the rate at which you submit required documentation and the volume of applications received by ASBN.
- Q: I am still in nursing school, can I submit my paperwork to ASBN before I graduate so it is reviewed faster?**
- A. ASBN cannot expedite the review process; each application is reviewed on a case – by - case basis and processed in the order that they are received. Your case cannot be reviewed until the ASBN application for licensure is received.
- Q: My criminal background check came back with an offense that I forgot to include on my application, what do I need to do?**
- A. You must provide information concerning the offense before the review process can be completed.
- Q: What type of documentation do I need to submit if I have a prior offense(s)?**
- A. You are required to submit specific documentation regarding each offense(s). Refer to the Criminal Background Check Information that is located on our website at www.arsbn.org for a detailed list of required documentation.
- Q: I have received a denial letter from the ASBN that states I may request a waiver, what do I need to do now?**
- A. If you have received a denial letter from the ASBN based on offense(s) that are identified as a bar to licensure, it will identify the offense(s) that are considered a bar for licensure in Arkansas. Information in the letter will identify what additional documentation you will be required to submit. The waiver request must be received by the Board within thirty (30) days from the date of the letter; specific instructions for submission are contained within the letter.
- Q: I have submitted a waiver request as identified in the denial letter that was sent to me from the ASBN. How many references / recommendations do I need to submit?**
- A. There are no specific requirements on the number of references / recommendations that you need to have submitted to the ASBN. You will want to obtain a number that will provide a wide range of information related to your behavior/ character etc. Please have the individual sign the reference/ recommendation and include their full contact information.
- Q: I have received a denial letter from the ASBN that states my application has been denied but I do not have any offenses that are identified as a bar to licensure, why would this occur?**
- A. An ASBN application for licensure may be denied for reasons other than a bar to licensure. The specific reason for a denial will be delineated in a letter that you will receive from the ASBN.