

§§2,3 -
C.45:1-21.5 &
45:1-21.6
§4 - Note

P.L. 2021, CHAPTER 81, *approved May 11, 2021*
Senate, No. 942 (*Second Reprint*)

1 **AN ACT** concerning criminal history records and professional or
2 occupational boards, and amending and supplementing
3 P.L.1978, c.73.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 8 of P.L.1978, c.73 (C.45:1-21) is amended to read
9 as follows:

10 8. A board may refuse to admit a person to an examination or
11 may refuse to issue or may suspend or revoke any certificate,
12 registration or license issued by the board upon proof that the
13 applicant or holder of such certificate, registration or license:

14 a. Has obtained a certificate, registration, license or
15 authorization to sit for an examination, as the case may be, through
16 fraud, deception, or misrepresentation;

17 b. Has engaged in the use or employment of dishonesty, fraud,
18 deception, misrepresentation, false promise or false pretense;

19 c. Has engaged in gross negligence, gross malpractice or gross
20 incompetence which damaged or endangered the life, health,
21 welfare, safety or property of any person;

22 d. Has engaged in repeated acts of negligence, malpractice or
23 incompetence;

24 e. Has engaged in professional or occupational misconduct as
25 may be determined by the board;

26 f. Has been convicted of, or engaged in acts constituting, any
27 crime or offense **【involving moral turpitude or relating adversely】**
28 that has a direct or substantial relationship to the activity regulated by
29 the board or is of a nature such that certification, registration or
30 licensure of the person would be inconsistent with the public's
31 'health,'¹ safety, 'or welfare,'¹ provided that the board shall make
32 this determination in a manner consistent with section 2 of
33 P.L. , c. (C.) (pending before the Legislature as this bill). For
34 the **【purpose】** purposes of this subsection a judgment of conviction
35 or a plea of guilty, non vult, nolo contendere or any other such
36 disposition of alleged criminal activity shall be deemed a
37 conviction;

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted June 25, 2020.

²Assembly AAP committee amendments adopted February 24, 2021.

- 1 g. Has had his authority to engage in the activity regulated by
2 the board revoked or suspended by any other state, agency or
3 authority for reasons consistent with this section;
- 4 h. Has violated or failed to comply with the provisions of any
5 act or regulation administered by the board;
- 6 i. Is incapable, for medical or any other good cause, of
7 discharging the functions of a licensee in a manner consistent with
8 the public's health, safety and welfare;
- 9 j. Has repeatedly failed to submit completed applications, or
10 parts of, or documentation submitted in conjunction with, such
11 applications, required to be filed with the Department of
12 Environmental Protection;
- 13 k. Has violated any provision of P.L.1983, c.320 (C.17:33A-
14 1 et seq.) or any insurance fraud prevention law or act of another
15 jurisdiction or has been adjudicated, in civil or administrative
16 proceedings, of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.)
17 or has been subject to a final order, entered in civil or
18 administrative proceedings, that imposed civil penalties under that
19 act against the applicant or holder;
- 20 l. Is presently engaged in drug or alcohol use that is likely to
21 impair the ability to practice the profession or occupation with
22 reasonable skill and safety. For purposes of this subsection, the
23 term "presently" means at this time or any time within the previous
24 365 days;
- 25 m. Has prescribed or dispensed controlled dangerous substances
26 indiscriminately or without good cause, or where the applicant or
27 holder knew or should have known that the substances were to be
28 used for unauthorized consumption or distribution;
- 29 n. Has permitted an unlicensed person or entity to perform an
30 act for which a license or certificate of registration or certification
31 is required by the board, or aided and abetted an unlicensed person
32 or entity in performing such an act;
- 33 o. Advertised fraudulently in any manner.
- 34 The division is authorized, for purposes of facilitating
35 determinations concerning licensure eligibility, to require the
36 fingerprinting of each applicant in accordance with applicable State
37 and federal laws, rules and regulations. Each applicant shall submit
38 the applicant's name, address, and written consent to the director for
39 a criminal history record background check to be performed. The
40 division is authorized to receive criminal history record information
41 from the State Bureau of Identification in the Division of State
42 Police and the Federal Bureau of Investigation. Upon receipt of
43 such notification, the division shall forward the information to the
44 appropriate board which shall make a determination regarding the
45 issuance of licensure. The applicant shall bear the cost for the
46 criminal history record background check, including all costs of
47 administering and processing the check, unless otherwise provided
48 for by an individual enabling act. The Division of State Police shall

1 promptly notify the division in the event an applicant or licensee,
2 who was the subject of a criminal history record background check
3 pursuant to this section, is convicted of a crime or offense in this
4 State after the date the background check was performed.

5 For purposes of this act:

6 "Completed application" means the submission of all of the
7 information designated on the checklist, adopted pursuant to section
8 1 of P.L.1991, c.421 (C.13:1D-101), for the class or category of
9 permit for which application is made.

10 "Permit" has the same meaning as defined in section 1 of
11 P.L.1991, c.421 (C.13:1D-101).

12 (cf: P.L.2003, c.199, s.31)

13
14 2. (New section) a. Notwithstanding any law, rule or regulation
15 to the contrary, **'[a board] an entity'** shall not disqualify a person
16 from obtaining or holding any certificate, registration or license
17 issued by **'[a board] an entity'** solely because the person has been
18 convicted of or engaged in acts constituting any crime or offense,
19 unless the crime or offense has a direct or substantial relationship to
20 the activity regulated by the **'[board] entity'** or is of a nature such
21 that certification, registration or licensure of the person would be
22 inconsistent with the public's **'health, safety , or welfare'**. For
23 the purposes of this section, a judgment of conviction or a plea of
24 guilty, non vult, nolo contendere or any other such disposition of
25 alleged criminal activity shall be deemed a conviction. In making
26 this determination, **'[a board] an entity'** shall consider the
27 following:

28 (1) the nature and seriousness of the crime or offense and the
29 passage of time since its commission;

30 (2) the relationship of the crime or offense to the purposes of
31 regulating the profession or occupation regulated by the **'[board] entity'**;
32

33 (3) any evidence of rehabilitation of the person in the period of
34 time following the prior conviction that may be made available to
35 the **'[board] entity'**; and

36 (4) the relationship of the crime or offense to the ability,
37 capacity, and fitness required to perform the duties and discharge
38 the responsibilities of the profession or occupation regulated by the
39 **'[board] entity'**.

40 b. **'[A board] An entity'** shall not disqualify a person from
41 obtaining or holding a certificate, registration or license issued by
42 the **'[board] entity'** because of a person's prior conviction of a
43 crime or offense unless it provides the person with a written notice
44 that the **'[board] entity'** has determined that the conviction may
45 disqualify the person, and an explanation for the preliminary
46 determination that the crime or offense has a direct or substantial
47 relationship to the activity regulated by the **'[board] entity'** or is of

1 a nature such that certification, registration or licensure of the
2 person would be inconsistent with the public's 'health,' safety, 'or
3 welfare,' and affords the person an opportunity to be heard before
4 the '[board] entity' prior to the '[board] entity' making a final
5 decision on whether to disqualify the person. The person shall be
6 afforded an opportunity to be heard before the '[board] entity' no
7 later than ²[30] 45² days after ²[receiving the written notice of
8 potential disqualification] the entity receives the person's request
9 for a hearing unless the person and the entity mutually agree to an
10 extension². If, after the person is afforded the opportunity to be
11 heard before the '[board] entity', the person is disqualified for a
12 certificate, registration or license, the '[board] entity' shall notify
13 the person, no later than ²[30] 45² days after the hearing, in writing
14 of the following:

- 15 (1) the grounds and reasons for the denial or disqualification;
16 (2) the earliest date the person may reapply for the certificate,
17 registration or license; and
18 (3) that additional evidence of rehabilitation may be considered
19 upon reapplication.

20 c. If a person's prior conviction was for murder, pursuant to
21 N.J.S.2C:11-3 or an equivalent statute of another state or
22 jurisdiction, or any sex offense that would qualify the person for
23 registration pursuant to section 2 of P.L.1994, c.133 (C.2C:7-2) or
24 under an equivalent statute of another state or jurisdiction, there
25 shall be a rebuttable presumption that the crime or offense has a
26 direct or substantial relationship to the activity regulated by the
27 '[board] entity' or is of such a nature that certification, registration
28 or licensure of the person would be inconsistent with the public's
29 'health,' safety, 'or welfare'.

30 ¹d. This section shall apply to any license, certification, or
31 registration issued by any entity designated in section 2 of
32 P.L.1978, c.73 (C.45:1-15), or by any principal department of the
33 Executive Branch of State government or any entity within any
34 department or any other entity hereafter created to license or
35 otherwise regulate a profession or occupation.¹

36 ²e. No certificate, registration or license shall be issued by the
37 Division of Local Government Services in the Department of
38 Community Affairs to an individual who has, within the five years
39 of preceding the submission of an application for a certificate,
40 registration or license, been convicted of embezzlement, fraud,
41 crimes involving public corruption, or theft.²

42
43 3. (New section) The Director of the Division of Consumer
44 Affairs in the Department of Law and Public Safety¹, and any entity
45 subject to the requirements of section 2 of P.L. , c. (C.)
46 (pending before the Legislature as this bill),¹ shall obtain data

1 concerning the number of, and reasons for, disqualification by any
2 ¹‘[board] entity’ pursuant to section 2 of P.L. , c. (C.)
3 (pending before the Legislature as this bill), and annually submit a
4 report to the Legislature, pursuant to section 2 of P.L.1991, c.164
5 (C.52:14-19.1), that provides the disqualification data for each
6 ¹‘[board] entity’.

7

8 4. This act shall take effect on the 90th day next following
9 enactment, except that the Director of the Division of Consumer
10 Affairs in the Department of Law and Public Safety¹, and any other
11 entity subject to the requirements of section 2 of P.L. , c. (C.)
12 (pending before the Legislature as this bill),¹ may take any
13 anticipatory administrative action in advance as shall be necessary
14 for the implementation of this act.

15

16

17

18

19 Requires certain standards for professional and occupational
20 boards considering applicants with criminal history records.