

175:20-5-7. Disqualifying criminal history and opportunity for initial determination

(a) Pursuant to 59 O.S. § 4000.1, the Board of Cosmetology and Barbering shall adopt a list of crimes that could disqualify a person from being licensed as a massage therapist. The Board shall adopt the list at its first meeting of the fiscal year and may modify the list as needed to protect public health and safety.

(b) A person who has pleaded guilty, nolo contendere or been convicted of a crime on the list may at any time, including before obtaining any required education or applying to sit for any necessary examination, request an initial determination as to whether the person's criminal history would potentially disqualify the individual from licensure as a massage therapist in Oklahoma. The request shall be in writing and shall include either a copy of the person's criminal history record or a statement describing each conviction or plea including the date of conviction or plea, the court of jurisdiction, and the sentence imposed. The person may submit any additional information including, but not limited to, the person's current circumstances, the length of time since the completion of any sentence, including probation, evidence of rehabilitation, and testimonials or personal reference statements, as well as the person's professional aspirations.

(c) Upon receipt of a written request for consideration of a person's criminal history record, the Executive Director, the Chair of the Board of Cosmetology and Barbering, and the Chair of the Advisory Board, in consultation with Board legal counsel, shall evaluate the request and make an initial determination based upon the information provided. A notice of initial determination shall be issued within sixty (60) days from the date the request was received. If the person is not satisfied with the response, the person may request that the matter be placed on the agenda of the Board's next regularly scheduled meeting.

(d) The notice of initial determination shall be in writing and mailed to the requestor at the address provided in the request, and shall contain the following statements:

- (1) Whether the person appears eligible for licensure at the current time based upon the information submitted by the requestor;
- (2) Whether there is a disqualifying offense prohibiting the person's licensure at any time and a statement identifying such offense in the criminal history record or information submitted for consideration;
- (3) Any actions the person may take to remedy what appears to be a temporary disqualification, if any;
- (4) The earliest date the person may submit another request for consideration, if any; and
- (5) A statement that the notice of initial determination is only an initial determination for eligibility for licensure based upon the information provided by the requestor. Additional information or intervening events may result in a different final determination.

(e) A person who has pleaded guilty, nolo contendere or been convicted of a crime on the list adopted by the Board pursuant to this section shall not be eligible for licensure for a period of three years from the date of the plea or conviction. Applicants whose pleas or convictions occurred more than three years prior to the date of application for licensure shall be evaluated on a case-by-case basis.