

**Rule Book Insert:
Emergency Rules Effective April 9, 2024, to September 14, 2025,
unless superseded by another rule or disapproved by the Legislature.**

**TITLE 485. OKLAHOMA BOARD OF NURSING
CHAPTER 10. LICENSURE OF PRACTICAL AND REGISTERED NURSES**

SUBCHAPTER 11. DISCIPLINARY ACTION

485:10-11-4. Licensure or certification of individuals with criminal history

(a) This section establishes the criteria utilized by the Board in determining the effect of criminal history on eligibility for nursing licensure or Advanced Unlicensed Assistant (AUA) certification and implements the requirements of Oklahoma Statutes Title 59 Sections 567.1. *et seq.* and 4000.1 (2022). This section applies to:

- (1) all currently licensed nurses and holders of an AUA certificate;
- (2) all individuals seeking to obtain a nursing license or AUA certificate; and
- (3) all individuals seeking a determination of their eligibility for nursing licensure or AUA certification.

(b) The felonies listed below in subsections (d) and (e) disqualify an individual from retaining licensure or becoming licensed as a nurse or retaining certification or becoming certified as an AUA in Oklahoma. When making a determination the Board will give consideration as set forth within 59 O.S. § 4000.1(B). Subsections (d) and (e) are not an exhaustive or exclusive list of crimes, both felonies and misdemeanors resulting in a conviction or a deferred sentence, that may result in discipline from the Board of Nursing, up to and including revocation. The felonies listed in subsections (d) and (e) disqualify an individual because they substantially relate to the practice of nursing and pose a reasonable threat to public safety for the reasons stated below.

(1) **The practice of nursing is a unique profession.** Licensees and certificate holders practice nursing autonomously in a wide variety of settings and provide care to patients who are, by virtue of their illness or injury, physically, emotionally, and/or financially vulnerable. These patients often include the elderly, children, those with mental or cognitive disorders, sedated or anesthetized patients, and/or disabled or immobilized individuals. Individuals who have engaged in criminal conduct place patients, healthcare employers and employees, and the public at risk of harm.

(2) **Crimes involving fraud and/or theft.** Licensees and certificate holders often have unfettered access to patients' privileged information, financial information, and valuables, including but not limited to medications, money, jewelry, credit cards/checkbook, and/or sentimental items. The practice of nursing continues 24 hours per day in all healthcare settings, including those where there is often no direct supervision of the individual. Patients in these healthcare settings are particularly vulnerable to the unethical, deceitful, and illegal conduct of a licensee or certificate holder. When an individual has engaged in criminal behavior involving fraud and/or theft, the Board is mindful that similar misconduct may be repeated in healthcare settings, thereby placing patients, healthcare employers and employees, and the public at risk. As such, crimes involving any type of fraud and/or theft are highly relevant to an individual's ability to provide safe nursing care.

(3) **Crimes involving sexual misconduct.** Licensees and certificate holders frequently provide nursing care to partially clothed or fully undressed patients, who are particularly vulnerable to exploitation. Due to the intimate nature of nursing care, professional boundaries in the practice of nursing are extremely important. When an individual has engaged in criminal behavior involving any type of sexual misconduct, the Board is mindful that similar misconduct may be repeated in healthcare settings. As such, crimes involving any type of sexual misconduct are highly relevant to an individual's ability to provide safe nursing care.

(4) **Crimes involving lying, falsification, and/or deception.** Licensees and certificate holders are required to accurately and honestly report and record information in a variety of places, such as medical records, pharmacy records, billing records, nursing notes, and plans of care, as well as to report errors in their own nursing practice. When an individual has engaged in criminal behavior involving lying, falsification, and/or deceptive conduct, the Board is mindful that similar misconduct may be repeated in healthcare settings, thereby placing patients, healthcare employers and employees, and the public at risk of harm. As such, crimes involving any type of lying, falsification and/or deception are highly relevant to an individual's ability to provide safe nursing care.

(5) **Crimes involving drugs and/or alcohol.** Licensees and certificate holders have a duty to their patients to provide safe, effective nursing care and to be able to practice safely. Individuals who have a substance use disorder may have impaired judgment and motor skills and are at risk for harming their patients and/or the public. Licensees and certificate holders have access to many medications and drugs and those with substance use disorders may misuse or steal drugs. Individuals affected by a substance use disorder may be unable to accurately assess patients, make appropriate judgments, or intervene in a timely and appropriate manner, thus putting their patients at risk. This danger is heightened when the licensee or certificate holder works in an autonomous setting where other healthcare providers are not present to intervene for the patient or the public. As such, crimes related to the use or possession of drugs or alcohol are highly relevant to an individual's fitness to practice.

(6) **Crimes involving violence and/or threatening behavior.** Licensees and certificate holders provide care to the most vulnerable of populations, including patients who often have no voice of their own and cannot advocate for themselves. Further, patients are dependent on the caregiver-patient relationship for their daily care. When an individual has engaged in violent or threatening criminal behavior, the Board is mindful that patients may be at risk for similar behavior in a healthcare setting. As such, crimes involving violence and threatening behavior are highly relevant to an individual's fitness to practice.

(c) All crimes listed in this subsections (d) and (e) are as described in Titles 21, 47 and 63 of the Oklahoma Statutes. In addition, the Board recognizes and gives similar treatment to similar offenses charged in other jurisdictions.

(d) Felony convictions that disqualify an individual from retaining licensure or becoming licensed as a nurse, or retaining certification or becoming certified as an AUA in Oklahoma include:

(1) Crimes involving fraud, theft, lying and/or falsification. Robbery 21 O.S. § 791 et seq.

- (2) Crimes involving sexual misconduct.
- (A) Human Trafficking 21 O.S. § 748.
 - (B) Trafficking in children 21 O.S. § 866.
 - (C) Incest 21 O.S. § 885.
 - (D) Forcible sodomy 21 O.S. § 888.
 - (E) Indecent exposure, indecent exhibitions, obscene material or child pornography, solicitation of minors 21 O.S. § 1021.
 - (F) Procure, cause the participation of a minor in any child pornography, buys, or knowingly possesses, procures, manufactures, or causes to be sold or distributed child pornography 21 O.S. §§ 1021.2 and 1024.2
 - (G) Commercial sale or distribution of pornography 21 O.S. § 1040.13.
 - (H) Soliciting/offering sex with minor 21 O.S. § 1040.13a.
 - (I) Offering or transporting one under 18 for sex 21 O.S. § 1087.
 - (J) Child Prostitution – unlawful detainment in prostitution house 21 O.S. § 1088.
 - (K) Lewd or indecent proposals to minor, sexual battery of minor 21 O.S. § 1123.
- (3) Crimes involving drugs and/or alcohol. Aggravated trafficking in subsection C of 63 O.S. § 2-415.
- (4) Crimes involving threats, violence and/or harm to another individual.
- (A) Assault, battery, or assault and battery with a dangerous or deadly weapon or by other means likely to produce death or great bodily harm 21 O.S. §§ 645 and 652.
 - (B) Aggravated assault and battery 21 O.S. § 646.
 - (C) Aggravated assault and battery on a law officer 21 O.S. § 650.
 - (D) Murder, first or second degree 21 O.S. §§ 701.7 and 701.8.
 - (E) Manslaughter, first degree 21 O.S. § 711.
 - (F) Kidnapping 21 O.S. § 741.
 - (G) Extortionate kidnapping 21 O.S. § 745.
 - (H) Child endangerment by permitting child abuse 21 O.S. § 852.1.
 - (I) Rape by instrumentation and Rape, first or second degree 21 O.S. §§ 1111.1 and 1114.
 - (J) Mistreatment of a mental patient, as provided for in 21 O.S. § 843.1.
 - (K) Abuse of a vulnerable adult as defined in 43A O.S. § 10-103.
 - (L) A felony involving domestic assault, domestic assault and battery, or domestic abuse as defined in Section 644 of Title 21 of the Oklahoma Statutes.
 - (M) Poisoning with intent to kill, as provided for in Section 651 of Title 21 of the Oklahoma Statutes.
- (5) Crimes involving harm to property.
- (A) Violation of Oklahoma Antiterrorism Act 21 O.S. §§ 1268 et seq.
 - (B) Arson, first degree 21 O.S. § 1401.
 - (C) Burglary, first degree 21 O.S. § 1431.
- (e) Felony convictions that disqualify an individual from retaining licensure or becoming licensed as a nurse, or retaining certification or becoming certified as an AUA in Oklahoma if a conviction or plea of guilty or nolo contendere for which less than five (5) years has elapsed since the date of conviction, plea, or release from incarceration, whichever is later, include:
- (1) Crimes involving fraud, theft, lying and/or falsification.
 - (A) Falsely personating another to gain money or property 21 O.S. § 1532.
 - (B) Identity theft 21 O.S. § 1533.1.

- (2) Crimes involving sexual misconduct. Knowingly engaging in acts likely to spread Human Immunodeficiency Virus 21 O.S. § 1192.1.
 - (3) Crimes involving drugs and/or alcohol.
 - (A) Causing, aiding, abetting minor to commit controlled dangerous substance crimes 21 O.S. § 856.1.
 - (B) Drug trafficking 63 O.S. § 2-415.
 - (4) Crimes involving threats, violence and/or harm to another individual.
 - (A) Aggravated assault and battery on medical personnel with firearm or other dangerous weapon 21 O.S. § 650.5.
 - (B) Malicious intentional intimidation or harassment based on suspect classification 21 O.S. § 850.
 - (C) Desertion – abandonment of child under ten 21 O.S. § 851.
 - ~~(D) Rape in the second degree 21 O.S. § 1114.~~
 - ~~(E) Mistreatment of a mental patient, as provided for in 21 O.S. § 843.1.~~
 - ~~(F) Abuse of a vulnerable adult as defined in 43A O.S. § 10-103.~~
 - ~~(G)~~(D) Endangering or injuring a person during arson or attempt 21 O.S. § 1405.
 - ~~(H)~~(E) Failure to stop after fatal accident 47 O.S. § 10-102.1.
 - ~~(I)~~(F) Mingling poison, drugs, or sharp objects with food, drink 21 O.S. § 832.
 - (5) Crimes involving harm to property. Arson, second or third degree 21 O.S. §§ 1402, and 1403.
- (f) To obtain a Determination of Eligibility pursuant to 59 O.S. § 4000.1(G-J), the required form shall be completed and filed with the Board. The fee for a Determination of Eligibility shall be \$95.00 and shall be submitted with the required form.
- (g) The Executive Director is authorized to close a file requesting determination of eligibility when the person seeking determination of eligibility for licensure or certification has failed to respond to a written request from the Board for information, within sixty (60) days of the written request.