



**POSITION STATEMENT BY THE
CHEMICAL DEPENDENCY PROFESSIONALS BOARD
RE: FRESH START
(DISQUALIFYING CRIMINAL CONVICTIONS)**

December 2019

One of purposes of the Fresh Start Act of 2019 is to help individuals with criminal history re-enter the workforce.

In accordance with the Fresh Start Act of 2019 (FSA), the conviction for an offense within the time period listed in the Appendixes **MAY NOT AUTOMATICALLY DISQUALIFY AN APPLICANT OR HOLDER** from receiving or maintaining initial credentials with the Chemical Dependency Professionals Board ("Board"); however, it will require a mandatory review and may extend the processing time.

PLEASE READ THIS ENTIRE DOCUMENT BEFORE REFERENCING THE APPENDIXES

THE BOARD ENCOURAGES ALL TO APPLY

Definitions and Limitations:

The FSA applies to initial applications for credentials. Initial applications also include applications after credential expiration and applications for credential conversion. This Board may discretionarily extend this position statement to applications for credentials other than those previously stated, such as renewal/restoration of credentials and/or reinstatement.

"Conviction" as used in this document includes a conviction, judicial finding, or plea of guilt. Time periods are calculated back from the date of application to the date of conviction or release from incarceration, whichever is later, provided the applicant was not convicted of *any* other offense during the time period.

"Offenses of violence," "sexual motivation," and "sexually oriented offenses" are as used in continuing law:

- "Offenses of violence" - as used in this document sections 2901.01 of the Revised Code.
- "Sexually oriented offenses" - sections 2950.01 of the Revised Code.
- "Sexual motivation" has the same meaning as in section 2971.01 of the Revised Code.

As used in this document, "violent motivation" shall mean an offense committed with the foreseeable¹ intent, or with reckless disregard, to cause direct harm² to others.

¹ A reasonable or likely consequence of an act.

Please be aware of the following:

- Excepted as provided herein, the Board, and its designee, *will not refuse* to issue initial credentials to an applicant for any of the following reasons:
 - Based on a conviction to an offense --- regardless if said conviction is the sole or partial basis;
 - Based on a criminal charge that does not result in a conviction;
 - Based on a nonspecific qualification such as "moral turpitude" or lack of "moral character";
 - Based on a conviction for an offense outside of the time period listed in the Appendixes.
 - That a conviction may not automatically disqualify an initial applicant from credentials; however, it does not guarantee that credentials will be granted.
 - An initial applicant must meet all eligibility requirements to be granted credentials.
 - Although the Board, and its designee, may grant credentials to an initial applicant who has a criminal conviction history, certain employers may restrict the credential holder from working in certain settings.
 - Exceptions to this document apply for positions for which appointment or satisfaction of appointment requires compliance under section 109.77 of the Revised Code.
Exceptions to this document apply for positions for which federal law requires disqualification for licensure or employment based on conviction.
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Process Steps:

1. A completed initial application for credentials must be filed. The Board, and its designee, does not have authority to make a formal determination or take action until such time.
2. Upon receiving information that an applicant has a criminal history, the Board, or its designee, conducts a thorough review.
3. When clear and convincing evidence shows an applicant was convicted of an Appendixes disqualifying offense, the Board, or its designee, takes into consideration the following factors when decision whether to issue or deny the credentials:
 - *Statutory considerations that the Board, or its designee, shall consider:*
 - The nature and seriousness of the crime;
 - The passage of time since the applicant committed the offense;
 - The relationship of the offense to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the credential; and
 - Any evidence of mitigating rehabilitation or treatment undertaken by the individual;
 - *Other considerations that the Board, or its designee, may consider:*
 - The extent of the initial applicant's past criminal activity;
 - The age of the initial applicant when the crime was committed;
 - The period of time since the offense date;
 - The conduct and work activity of the initial applicant before and after the criminal activity;
 - An initial applicant's eligibility for intervention in lieu of conviction;
 - Whether the initial applicant conviction was to the original charge or a lesser included offense;

² A direct cause that sets in motion a chain of events that ultimately causes harm without the intervention of a new and independent force to break the chain of events.

- Whether the initial applicant has completed the terms of any probation or parole including post release control, community control or interventions in lieu of convictions, or deferred adjudication, including but not limited to active registration on the offender registry;
 - Completion of all restitution to courts for fines and fees regarding convictions for Appendixes offenses;
 - Whether the initial applicant has a certificate of qualification for employment issued by an Ohio court of common pleas pursuant to section 2953.25 of the Revised Code, or an equivalent certification has been issued by an out of state or federal jurisdiction;
 - Whether the initial applicant fully disclosed the arrest or conviction to the Board, or its designee, and;
 - Any other factors the Board, or its designee, considers relevant.
4. If the Board, or its designee, proposes to deny the initial application based upon the initial applicant's criminal history, the applicant will receive written notice and be offered an opportunity for an administrative hearing under Chapter 119. of the Revised Code. The written notice will include the following:
- State the grounds and reasons for the refusal;
 - Explain the application of the factors used to reach the decision;
 - Identify the earliest date for licensure reapplication;
 - Give notice that evidence of rehabilitation may be considered on future applications.

Appendixes: The Appendixes complies with the following:

- Identifies each disqualifying offense by name or by the Revised Code section number that creates the offense;
- Includes in the list only criminal offenses that are directly related to the duties and responsibilities of the licensure credential.
- The Appendixes may include in the list an existing or former municipal ordinance or law of this or any other state or the United States that is substantially equivalent to any section or offense.

Pardons/Set Asides: A conviction of a disqualifying offense may not prevent an applicant from receiving or holding credentials, if any of the following circumstances apply:

- The initial applicant has been granted an unconditional pardon for the offense pursuant to Chapter 2967. of the Revised Code or a law that is substantially equivalent to an existing or former law of the state of Ohio, any other state, or the United States;
- The initial applicant has been granted a conditional pardon for the offense pursuant to Chapter 2967. of the Revised Code or a law that is substantially equivalent to an existing or former law of the state of Ohio, any other state, or the United States and the condition(s) under which the pardon was granted have been satisfied;
- The conviction of the initial applicant has been set aside pursuant to law; or
- An initial applicant who has been convicted of a disqualifying offense and has applied to obtain a pardon or certificate as described above; may not be excluded from receiving or holding credentials until the date the pardon is granted / denied.

THE BOARD ENCOURAGES ALL TO APPLY

Title:	Disqualifying Offenses / Fresh Start Act of 2019
Type:	Position Statement
Id Number:	30-ST-30PP01
Related References:	n/a
Legal References:	See references within Position Statement, if any Acts: Fresh Start Act of 2019 ORC: 4758.01 OAC: 4758-2-01 and 4758-4-01
Supersedes:	Prior versions and any other guidance issued for Medical Marijuana
Effective Date:	12/1/2019 (as Amended 2/10/2020)
Next Review Date:*	9/1/2021
Implementation Date:	2/1/2022
Approved:	Jill Smock, Executive Director (ratification of action by the Board on 11/8/2019)

* The Executive Director, or designee, shall review position, policy, and procedures statements (collectively Statements) on or before the stated review date listed above and if applicable, make any necessary revisions in accordance with any Board Statements regarding development, review, dissemination and acknowledgement.

Pursuant to Ohio Revised Code 4758.15, the Executive Director (ED) has been granted discretionary authority on behalf of the Board to develop, implement, maintain, and amend position statements to support rules, policies, and position statements.

Unless otherwise stated, all employees, Board members, and contractors for the Board (collectively Board employees) shall follow all laws, rules, policies, and procedures. A Board employee may be subject to discipline up to and including removal for violating laws, rules, policies, and procedures.

Definitions as stated in Chapters 4758 of the Ohio Revised Code (ORC) and Ohio Administrative Code (OAC) are incorporated by reference herein.

Helpful Links

Ohio Revised Code: <http://codes.ohio.gov/orc/4729>

Ohio Administrative Code: <http://codes.ohio.gov/oac/4729>

Appendix A: OFFENSES

NAME OF OFFENSE	R.C. CITATION	PERIOD OF TIME SINCE CONVICTION (in years)
Aggravated vehicular homicide/assault - vehicular homicide/assault - vehicular manslaughter	2903.06 and 2903.08	5
Reckless / Negligent Homicide	2903.041 and 2903.05	5
Felony Assault committed without a violent or sexual motivation	2903.13	5
Failing to provide for a functionally impaired person	2903.16	5
Patient endangerment	2903.341	5
Filing false patient abuse or neglect complaints	2903.35	5
Criminal child enticement committed without a sexual motivation	2905.05	5
Unlawful restraint committed without a violent or sexual motivation	2905.03	5
Coercion	2905.12	5
Unlawful Conduct with respect to documents	2905.33	5
Trafficking in persons committed without a violent or sexual motivation	2905.32	5
Commercial sexual exploitation of a minor	2907.19	5
Enticement or solicitation to patronize a prostitute; procurement of a prostitute for another	2907.23	5
Soliciting - after positive HIV test - driver's license suspension	2907.24	5
Disseminating/displaying/deception to obtain matter harmful to juveniles	2907.31, 2907.311, and 2907.33	5
Compelling acceptance of objectionable materials	2907.34	5
Permitting unlawful operation of viewing booths depicting sexual conduct	2907.38	5
Permitting juvenile on premises of adult entertainment establishment - use of false information to gain entry	2907.39	5
Illegally operating sexually oriented business	2907.40	5
Counterfeiting	2913.30	5

Forgery - Forging identification cards or selling or distributing forged identification cards	2913.31	5
Medicaid fraud	2913.40	5
Medicaid eligibility fraud	2913.401	5
Tampering with records	2913.42	5
Securing writings by deception	2913.43	5
Illegal use of food stamps or WIC program benefits	2913.46	5
Insurance/workers' compensation/identity fraud	2913.47, 2913.48, and 2913.49	5
Gambling	2915.02	5
Operating a gambling house	2915.03	5
Cheating - corrupting sports	2915.05	5
Dissemination of image of another person	2917.211	5
Endangering children committed without a violent or sexual motivation	2919.22	5
Felony Nonsupport or contributing to nonsupport of dependents	2919.21	5
Contributing to unruliness or delinquency of a child	2919.24	5
Perjury	2921.11	5
Unlawful possession of dangerous ordnance - illegally manufacturing or processing explosives.	2923.17	5
Unlawful transaction in weapons	2923.20	5
Improperly furnishing firearms to minor	2923.21	5
Participating in criminal gang	2923.42	5
Corrupting another with drugs	2925.02	5
Felony Trafficking, aggravated trafficking in drugs	2925.03	5
Felony Illegal manufacture of drugs - illegal cultivation of marijuana - methamphetamine offenses	2925.04	5
Illegal assembly or possession of chemicals for manufacture of drugs	2925.041	5
Funding, aggravated funding of drug or marijuana trafficking	2925.05	5
Illegal administration or distribution of anabolic steroids	2925.06	5
Unapproved drugs - dangerous drug offenses involving livestock	2925.09	5

Felony Possession of controlled substances	2925.11	5
Permitting drug abuse	2925.13	5
Felony Deception to obtain a dangerous drug	2925.22	5
Felony Illegal processing of drug documents	2925.23	5
Felony Tampering with drugs	2925.24	5
Trafficking in harmful intoxicants - improperly dispensing or distributing nitrous oxide	2925.31	5
Felony Abusing harmful intoxicants	2925.32	5
Illegal dispensing of drug samples	2925.36	5
Felony Counterfeit controlled substance offenses	2925.37	5
Illegal distribution of or permitting children to use cigarettes or other tobacco or alternative nicotine products	2927.02	5
Repeat violent offender	2929.01	5
Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed above	2923.01, 2923.02, and 2923.03	5

APPENDIX B: CLASSIFIED AS OFFENSES OF VIOLENCE

NAME OF OFFENSE	R.C. CITATION	PERIOD OF TIME SINCE CONVICTION (in years)
Aggravated murder	2903.01	Lifetime
Murder	2903.02	Lifetime
Voluntary manslaughter	2903.03	Lifetime
Involuntary manslaughter	2903.04	5
Felonious assault	2903.11	Lifetime
Aggravated assault	2903.12	5
Assault	2903.13	3
Permitting child abuse	2903.15	Lifetime
Aggravated Menacing	2903.21	5
Menacing	2903.22	3
Menacing by stalking	2903.211	3
Patient abuse	2903.34(A)(1)	5
Kidnapping without a sexual motivation	2905.01	5
Abduction without a sexual motivation	2905.02	5
Extortion	2905.11	5
Trafficking in persons	2907.32	Lifetime
Rape	2907.02	Lifetime
Sexual battery	2907.03	5
Gross sexual imposition	2907.05	5
Felonious sexual penetration (former offense)	Former 2907.12	Lifetime
Aggravated arson	2909.02	5
Arson	2909.03	3
Terrorism	2911.24	Lifetime
Aggravated robbery	2911.01	5
Robbery	2911.02	3
Aggravated burglary	2911.11	5
Burglary	2911.12(A)	3
Inciting to violence	2917.01	3
Aggravated riot	2917.02	5
Riot	2917.03	3
Inducing panic	2917.31	3
Endangering children via abuse	2919.22(B)(1) to	Lifetime
Domestic Violence	2919.25	5
Intimidation	2921.03	5
Intimidation of an attorney, victim, or witness in a criminal case	2921.04	5

Escape	2921.34	3
Improperly discharging a firearm at or into a habitation, in a school safety zone, or with the intent to cause harm or panic to persons in a school, in a school building, or at a school function or the evacuation of a school function	2923.161	Lifetime
An offense, other than a traffic offense, under an existing or former municipal ordinance or state or federal law, committed purposefully, knowingly, and involving physical harm to persons or a risk of serious physical harm to adult or non-impaired persons	2901.01(A)(9)(c)	5
Violation of an existing or former municipal ordinance or state or federal law, substantially equivalent to any offense listed above	2901.01(A)(9)(b)	Same as paralleled offense
A conspiracy or attempt to commit, or complicity in committing, any offense listed above	2923.01, 2923.02, and 2923.03	Same as listed offense

Appendix C – CLASSIFIED AS SEXUALLY ORIENTED OFFENSESⁱ

NAME OF OFFENSE	R.C. CITATION	PERIOD OF TIME SINCE CONVICTION (in years)
Aggravated murder when committed with a sexual motivation	2903.01 and 2950.01	Lifetime
Murder when committed with a sexual motivation	2903.02 and 2950.01	Lifetime
Voluntary manslaughter when committed with a sexual motivation	2903.03(B) and 2950.01	Lifetime
Involuntary manslaughter when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation	2903.04(A) and 2950.01	Lifetime
Felonious assault when committed with a sexual motivation	2903.11 and 2950.01	Lifetime
Menacing by stalking with a sexual motivation	2903.211(A)(3) and 2950.01	5
Kidnapping when committed with a sexual motivation or when the victim is under 18 years old and the offender is not the victim's parent, or to engage in sexual activity with the victim against the victim's will	2905.01(A)(1)-(5) and (B) and 2950.01	Lifetime
Abduction when committed with a sexual motivation	2905.02(B)	5
Unlawful restraint when committed with a sexual motivation	2905.03(B)	5
Criminal child enticement when committed with a sexual motivation	2905.05(B)	Lifetime
Rape	2907.02	Lifetime
Sexual battery	2907.03	5
Gross sexual imposition	2907.05	Lifetime
Sexual imposition	2907.06	5
Importuning	2907.07	5
Voyeurism	2907.08	5
Compelling prostitution	2907.21	5
Promoting prostitution	2907.22	5
Soliciting	2907.24(A)(3)	3
Pandering obscenity	2907.32	5
Pandering obscenity involving a minor or impaired person	2907.321	Lifetime
Pandering sexually oriented matter involving a minor or impaired person	2907.322	Lifetime

Illegal use of a minor or impaired person in a nudity-oriented material or performance	2907.323	Lifetime
Unlawful sexual conduct with a minor when the offender is less than 4 years older than the other person with whom the offender engaged in sexual conduct, the other person did not consent to the sexual conduct, and the offender previously has not been convicted of or pleaded guilty to rape, sexual battery, unlawful sexual conduct with a minor, or the former offense of felonious sexual penetration	2907.04 and 2950.01	Lifetime
Unlawful sexual conduct with a minor when the offender is at least 4 years older than the other person with whom the offender engaged in sexual conduct or when the offender is less than 4 years older than the other person with whom the offender engaged in sexual conduct and the offender previously has been convicted of or pleaded guilty to rape, sexual battery, unlawful sexual conduct with a minor, or the former offense of felonious sexual penetration	2907.04 and 2950.01	Lifetime
Public indecency under circumstances in which the person's conduct is likely to be viewed by and affront another person who is in the person's physical proximity, who is a minor, and who is not the offender's spouse, by exposing the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity and if the sentencing court classifies the offender as a tier I sex offender/child-victim offender subject to registration under the Sex Offender Registration and Notification Law	2907.09(B)(4) and (D) and 2950.01	Lifetime
Endangering children by enticing, coercing, permitting, encouraging, compelling, hiring, employing, using, or allowing a child under 18 years of age or a mentally or physically handicapped child under 21 years of age to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, sexually oriented matter, or nudity-oriented matter	2919.22(B)(5)	Lifetime
A violation of any former Ohio law, any existing or former municipal ordinance or another state's or federal law, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any foreign nation that is or was substantially equivalent to any offense listed above	2950.01(A)(13)	Same as paralleled offense
Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed above	2923.01, 2923.02, and 2923.03	Same as listed offense

ⁱ For some offenses, at least one additional sexually oriented element is required for the underlying offense to constitute a sexually oriented offense (e.g., some underlying offenses must be committed with a “sexual motivation”). The table identifies each of those offenses by the name of the underlying offense and describes the additional sexually oriented element or elements. The offense of trafficking in persons, under certain circumstances, is considered a sexually oriented offense, and those circumstances are described after the table. Trafficking in persons constitutes a “sexually oriented offense” when the offender knowingly or knowingly attempted to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain, any of the following: 1) Another person knowing that the person would be compelled to engage in sexual activity for hire, or engage in a performance or be a model or participant in the production of material that is obscene, sexually oriented, or nudity oriented; 2) Another person who is less than 16 years of age or is a person whom the offender knows or has reasonable cause to believe is a person with a developmental disability for the purpose of engaging in sexual activity, in a performance, or to be a model or participant for hire in the production of material that is obscene, sexually oriented, or nudity oriented; or 3) Another person who is 16 or 17 years of age for the purpose of engaging in sexual activity, in a performance, or to be a model or participant for hire in the production of material that is obscene, sexually oriented, or nudity oriented, and certain circumstances of sexual battery apply with respect to the offender and the other person.ⁱ