

Kansas Administrative Regulations

Kansas Department for Aging and Disability Services

Article 38.—Licensure of Adult Care Home Administrators

26-38-5. Potentially disqualifying civil and criminal records; advisory opinion; fee.

(a) Each applicant shall provide, and shall authorize the board to request, disciplinary action information and criminal history records. If adverse information is received from the applicant or from any other source, the applicant shall provide all necessary records, sworn affidavits, or other documentation required by the board concerning the disciplinary action or criminal conviction, including any evidence that all sentencing requirements have been completed. The applicant shall pay all costs for the acquisition of these documents.

(b) The following criminal records may disqualify an applicant from receiving a license:

(1) Conviction of any felony;

(2) conviction of any class A misdemeanor that includes any of the following:

(A) A crime involving violation of any state or federal drug, narcotic, or controlled substances law;

(B) a crime against persons, as defined in K.S.A. 2018 Supp. 21-5401 et seq. and amendments thereto;

(C) a sex offense, as defined in K.S.A. 2018 Supp. 21-5501 et seq. and amendments thereto;

(D) a crime affecting family relationships and children, as defined in K.S.A. 2018 Supp. 21-5601 et seq. and amendments thereto, excluding criminal nonsupport, as defined in K.S.A. 2018 Supp. 21-5606 and amendments thereto;

(E) a crime promoting the sale of sexual relations, as defined in K.S.A. 2018 Supp. 21-6420 and amendments thereto;

(F) a crime of theft, as defined in K.S.A. 2018 Supp. 21-5801 and amendments thereto;

(G) an attempt, conspiracy, or solicitation to commit any offense described in this subsection; or

(H) any similar criminal offense defined by another state or by the federal government; and

(3) conviction of any other misdemeanor that meets both of the following conditions:

(A) The crime involved at least one of the circumstances described in paragraph (b)(2); and

(B)(i) Fewer than five years have passed since the applicant completed that individual's sentence, including any term of incarceration, probation, or community supervision; or

(ii) the applicant has been convicted of another crime in the five years immediately preceding the date of application for license.

(c) If an applicant has been subject to disciplinary action or has been convicted of any crime described in this regulation, the applicant shall have the burden of proving that the applicant has been rehabilitated and warrants the public trust.

(d) Civil records that may disqualify an applicant from receiving a license shall be the records of any court judgment or settlement in which the applicant admitted or was found to have engaged in conduct that would constitute a violation of K.S.A. 65-3501 et seq., and amendments thereto, or any of the board's regulations. Those records may disqualify an applicant from receiving a license for no more than five years after the applicant satisfied any judgment or restitution ordered by the court or agreed to in the settlement.

(e) Any individual with a criminal or civil record described in this regulation may submit a petition to the board for an informal, written advisory opinion concerning whether the individual's civil or criminal record may disqualify the individual from licensure. Each petition shall include the following:

(1) The details of the individual's civil or criminal record, including at least one copy of the court records or the settlement agreement;

(2) an explanation of the circumstances that resulted in the civil or criminal record; and

(3) a check or money order in the amount of \$50.00.

(Authorized by K.S.A. 65-3503 and 74-120; implementing K.S.A. 65-3503, 65-3508, and 74-120; effective Oct. 2, 2020.)

***** Authenticated Kansas Administrative Regulation *****