

**092.00.1-16. PRE-LICENSURE CRIMINAL BACKGROUND CHECK AND WAIVER
REQUEST
(Adopted 9/11/2019)**

28. Pre-licensure criminal background check:

A. Pursuant to Ark. Code Ann. §17-2-103, an individual may petition for a pre-licensure determination of whether the individual's criminal record will disqualify the individual from an occupational license and whether a waiver may be obtained.

B. The individual must obtain a pre-licensure criminal background check petition form from the Board.

C. The Board will respond with a decision, in writing, to a completed petition within a reasonable amount of time.

D. The Board's response will state the reason(s) for the decision.

E. All decisions of the Board in response to the petition will be determined by the information provided by the individual.

F. Any decision made by the Board in response to a pre-licensure criminal background check petition is not subject to appeal.

G. The Board will retain a copy of the petition and response, which will be reviewed during the formal application process.

29. Waiver Request:

A. If an individual has been convicted of an offense listed in Ark. Code Ann. §17-2-102(a), except those permanently disqualifying offenses found in subsection (e), the Board may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for waiver is made by:

(1) An affected applicant for an occupational license; or

(2) An individual holding an occupational license subject to revocation.

B. The Board may grant a waiver upon consideration of the following, without limitation:

(1) The age at which the offense was committed;

(2) The circumstances surrounding the offense;

(3) The length of time since the offense was committed;

- (4) Subsequent work history since the offense was committed;
- (5) Employment references since the offense was committed;
- (6) Character references since the offense was committed;
- (7) Relevance of the offense to the occupational license; and

(8) Other evidence demonstrating that licensure or certification of the applicant does not pose a threat to the health or safety of the public.

C. A request for waiver, if made by an applicant, must be in writing and accompany the completed application and fee.

D. The Board will respond with a decision, in writing, and will state the reason(s) for the decision.

E. An appeal of a determination under this section will be subject to the Administrative Procedures Act §25-15-201 *et seq.*

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