TEXAS BOARD OF PROFESSIONAL ENGINEERS
Policy Statement

Date Approved by Board : *November 21, 2013*

Approved: ☐ Lance Kinney, Executive Director (LK Init / 11/21/13 Date)

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Title: *Criminal History Policy for Licensees*

Subject: *Criminal Conviction Policy*

Replaces: *Criminal History Policy for Licensees of 2011*

Policy Determination:

Under Board rule 137.5, licensees are required to notify the Board of any misdemeanor or felony convictions within 30 days of the action. In addition, at the time of annual renewal, all licensed engineers are asked to attest to whether he or she has, since the last renewal, been convicted of an offense for a felony or misdemeanor. The board may, at its discretion, submit identifying information to the Texas Department of Public Safety and or other appropriate agencies requesting records for a licensee.

Board rule 139.43 states that upon review of reported criminal convictions, the Board may take any of the standard enforcement actions. Any felony convictions which result in incarceration require revocation of the license.

SB204 (83rd Legislature – Regular Session) mandates that all licensed professional engineers who are active at their renewal time in 2014 (if inactive, their first active renewal, or upon changing their status to active) must have had their fingerprints taken for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation. (§1001.3035) Results of that criminal history record check process (CHRC) will be reviewed by Compliance & Enforcement Division (C & E) and depending on what is identified on each record, a

notification will be sent to the P.E. with one of the following communications; CHRC completion email/letter or a letter of enforcement case opening.

If the results of the CHRC or a self-reported violation indicate that a non-class C misdemeanor has occurred within the last 5 years and the conviction relates to one or more of the following:

- honesty & trustworthiness,
- financial violations,
- aggravated assault,
- sexual assault,
- multiple DUI, with any two less than 5 years apart,
- multiple drug possessions, with any two less than 5 years apart, or
- other similar or related violations as outlined in Texas Occupations Code 53;

an enforcement case will be opened to evaluate the circumstances and determine an appropriate resolution and the licensee will be notified per standard C & E case procedures. If the violation does not meet these criteria, a completion email/letter will be sent to the licensee.

If the results of the CHRC or a self-reported violation indicate that a felony conviction has occurred within the last 10 years and the conviction relates to one or more of the following:

- honesty & trustworthiness,
- financial violations,
- aggravated assault,
- sexual assault,
- alcohol or drug infractions, or
- other similar or related violations as outlined in Texas Occupations Code 53;

an enforcement case will be opened to evaluate the circumstances and determine an appropriate resolution and the licensee will be notified per standard C & E case procedures. If the violation does not meet these criteria, a completion email/letter will be sent to the licensee.

If incarceration has occurred as a result of a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision, then C&E will open a 'D' case for revocation of the P.E.'s license, per Chapter 53.021(b).

Criminal convictions reported and/or discovered outside of the 2014 CHRC renewal process will follow this same method to determine if an enforcement investigation needs to be opened.

See attached flowchart depiction of the process.

Background and reason(s) for policy interpretation:

Pursuant to Texas Occupations Code Chapter 53 relating to Consequences of Criminal Convictions, The Texas Board of Professional Engineers establishes the following guidelines for consideration for licensure as a Professional Engineer in Texas.

The board shall consider:

- The nature and seriousness of the crime;
- The relationship of the crime to the board's statutory responsibility to ensure that a person practicing as a Professional Engineer in Texas protects the health, safety, and welfare of the public;
- The relationship of the crime to the competence, ability, capacity, fitness or professional judgment required to perform the duties and discharge the responsibilities of an engineer;
- The outcome or resolution of the judgment, deferral of judgment, penalty or punishment, whether completed or on-going;
- The date of completion and resolution of the terms of any judgment, penalty or punishment;
- The extent to which renewal of a license will allow a person to engage in further criminal activity of the same type as that which the applicant previously had been involved.

Applicable Rules:

§137.5 Notification of Name Change, Address Change, Employer Change and Criminal Conviction
§139.43 License Holder with Criminal Conviction

Statutory Authority:

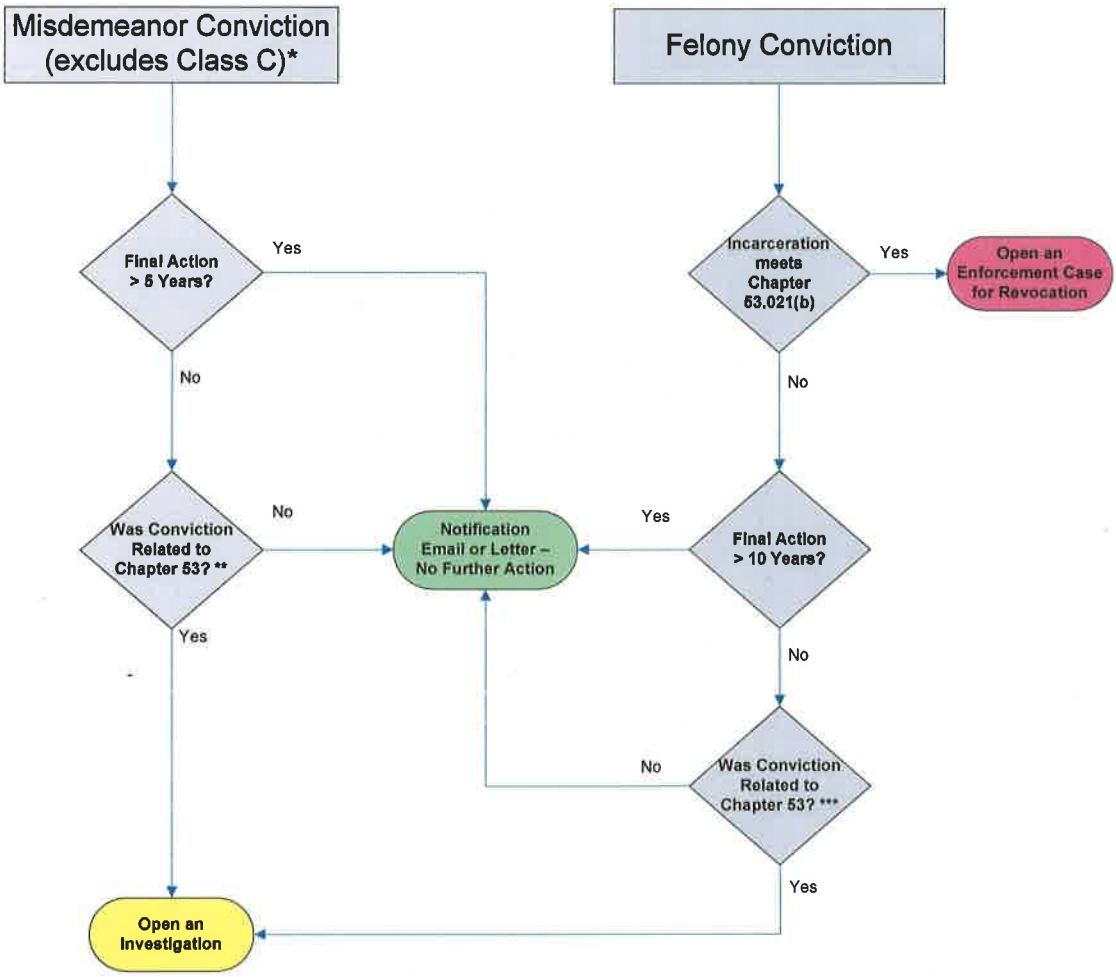
§1001.2035 Rules on Consequences of Criminal Conviction
§1001.3035 Criminal History Record Information Requirement for License Issuance
§1001.3535 Criminal History Record Information Requirement for License Renewal
Chapter 53, Texas Occupations Code

Other References:

N/A

Keywords:
Criminal Convictions

Criminal History Record Check For Licensees



* Only Convictions. Arrests w/o conviction or Deferred Adjudication not considered.

** Conviction Related to but not limited to: honesty & trustworthiness, financial, aggravated assault, sexual assault, multiple DUI or drug possession charges that are less than 5 years apart, orother similar or related violations outlined in Texas Occupations Code 53.

*** Conviction Related to but not limited to: honesty & trustworthiness, financial, aggravated assault, or sexual assault, alcohol or drug infractions, or other similar or related violations as outlined in Texas Occupations Code 53.