



ARIZONA BOARD OF FINGERPRINTING

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FINAL Minutes for Public Meeting

Held June 29, 2018, at 9:00 a.m.
4205 North 7th Avenue, Suite 206
Phoenix, Arizona

Board Members

Garnett Winders, Department of Education, Chairperson
Mark Koch, Administrative Office of the Courts, Vice Chairperson
Kim Pipersburgh, Department of Health Services
Shamiran Warda, Department of Juvenile Corrections
John Piccarreta, Department of Child Safety
Elanie Estrada, Department of Economic Security

Executive Director

Matthew A. Scheller

CALL TO ORDER AND ROLL CALL

The following Board members were present: Garnett Winders, Mark Koch, Shamiran Warda, Elanie Estrada, John Piccarreta, and Megan Whitby (Alternate for Department of Health Services). The following Board member was absent: Kim Pipersburgh (Department of Health Services)

Also in attendance was Matthew A. Scheller, Executive Director.

CALL TO THE PUBLIC

Ms. Winders made a call to the public. There were no members of the public present who wished to comment.

APPROVAL OF MINUTES FROM SEPTEMBER 22, 2017

Mr. Koch made a motion to approve the draft minutes from September 22, 2017, and Ms. Warda seconded. The motion passed 6–0.

LEGISLATION

Mr. Scheller referred the Board members to the Memo regarding legislation from the most recent legislative session – 53rd Legislature – 2nd Regular Session, 2018. (see Attachment 1).

Mr. Scheller focused his comments on the legislation noted in the Memo dated June 27, 2018 and the occupations that are being added to the Fingerprint Clearance Card (“FCC”) system for this coming year: Industrial Hemp Licenses (ARS §3-314), Home Inspector Certification (ARS §32-122.02), Department of Economic Security Employees who have access to federal tax information (ARS § 41-1969), and Dental Therapist Licensure (ARS § 32-1276.01).

Mr. Scheller noted that Senate Bill (“SB”) 1436, prohibits a state agency or board from determining that the person's criminal record disqualifies the person from obtaining a credential unless certain factors are determined, including a finding by clear and convincing evidence that the offense is related to the state's interest; and the person is more likely to reoffend by having the credential than if the person did not have the credential. This law does not apply to the statutory requirements for a Fingerprint Clearance Card; therefore, the Board may see other agencies/occupations added to the Fingerprint Clearance Card system in future years. Mr. Scheller will continue to monitor this going forward.

Mr. Scheller discussed SB 1098, which requires a grower, harvester, transporter or processor of industrial hemp to obtain a license issued by the Arizona Department of Agriculture (“AZDA”). Applicant will be required to provide proof of having a valid Fingerprint Clearance Card to validate eligibility. It is unknown at the present time how many additional applications for Good Cause Exceptions will be received based upon this requirement by hemp growers.

Mr. Scheller discussed SB 1045, requires home inspector certification applicants to submit a valid fingerprint clearance card to the Board of Technical Registration (“BTR”), rather than submitting a full set of fingerprints for BTR to obtain a federal and state criminal records check. It was noted that last fiscal year alarm installers, also regulated by BTR, were added to the Fingerprint Clearance Card process.

SB 1164 requires a Department of Economic Security (“DES”) employee or contractor who has access to federal tax information to obtain a Level 1 Fingerprint Clearance Card. In addition, SB 1072. clarifies that a Department of Child Safety (“DCS”) Information Technology (“IT”) employee, contractor or subcontractor must have a level 1

fingerprint clearance card if the employee has access to DCS information as a part of their job duties.

SB 1218 clarifies that an applicant, licensee, volunteer or adult household member of a developmental home must have a Level 1 fingerprint clearance card. It was indicated that this law is essentially already in place, and the most recent Bill intended to clarify that the individuals must maintain a valid FCC, not just upon initial licensure.

Mr. Scheller indicated that House Bill (“HB”) 2235 creates a new dental provider known as a “dental therapist.” The law gives Board of Dental Examiners authority to issue a dental therapy license and one of the requirements is to obtain a fingerprint clearance card. Mr. Scheller noted that he has a scheduled meeting in July 2018 with the Administrative Service Manager of the Applicant Clearance Card Team to further discuss the legislative impact for 2018-2019. In addition, Mr. Scheller will speak with the Executive Director of the Board of Dental Examiners to help determine the impact this will have on the Board’s caseload.

ADJOURNMENT

Ms. Winders adjourned the meeting at 9:12 a.m.

Minutes approved on August 24, 2018

Matthew A. Scheller, Executive Director



Arizona Board of Fingerprinting Memo

TO: Board Members
 FROM: Matthew A. Scheller
 Date: June 27, 2018
SUBJECT Legislative update

This memo summarizes the content and disposition of significant legislation relevant to the Board of Fingerprinting. The list below is the most important bills that passed during the most recent legislative session (53rd Legislature – 2nd Regular Session, 2018). The General Effective Date for newly signed legislation is August 3, 2018 (unless there is an emergency clause).

SENATE BILLS

SB 1436: PROHIBITION; CRIMINAL HISTORY; OCCUPATIONAL REGULATION

This legislation allows a person to petition a state agency or board for a determination as to whether the person's criminal record will disqualify the person from receiving a credential. The person applying may do so at any time, including before taking the exam or paying a fee. The law prohibits a state agency or board from determining that the person's criminal record disqualifies the person from obtaining a credential unless:

- a. The person was convicted of any of the following and the conviction has not been expunged:
 - i. A felony;
 - ii. A misdemeanor involving violence; or
 - iii. A sexual offense; and
- b. The agency or board determines that there is an important interest in protecting public safety that is greater than the person's right.
 - i. To decide this, the agency or board must find by clear and convincing evidence that:
 - The offense is substantially related to the state's interest; and
 - The person is more likely to reoffend by having the credential than if the person did not have the credential.

Note: This does not apply to the statutory requirements for a Fingerprint Clearance Card issued pursuant to title 41, chapter 12, article 3.1.

Signed by Governor Ducey on 4/11/2018.

SB 1098: INDUSTRIAL HEMP; LICENSING

Declares industrial hemp is an agricultural product subject to regulation by the Arizona Department of Agriculture (“AZDA”). Requires a grower, harvester, transporter or processor to obtain a license from the AZDA. Specifies an application for an original and renewal industrial hemp license must:

- a. be on a form provided by AZDA;
- b. include complete and accurate information; and
- c. be accompanied by the licensing fee.

Requires an applicant to provide proof of having a valid Fingerprint Clearance Card to validate eligibility. Directs the Arizona Department of Public Safety (“DPS”) to conduct fingerprint background checks on license applicants. It is unknown at the present time how many additional applications for Good Cause Exceptions will be received based upon this requirement by hemp growers. I have a scheduled meeting in July 2018 with the Administrative Service Manager of the Applicant Clearance Card Team to further discuss the legislative impact for 2018-2019.

Signed by Governor Ducey on 5/14/2018.

SB 1045: HOME INSPECTORS

Requires *initial* home inspector certification applicants to submit a valid fingerprint clearance card to the Board of Technical Registration (“BTR”), rather than submitting a full set of fingerprints for the Board to obtain a federal and state criminal records check. The fingerprint clearance card process does not provide the hiring or certifying party with any criminal or background information other than whether the person is eligible for a fingerprint clearance card. However, unlike a point-in-time background check which was previously required by home inspectors, if a person with a fingerprint clearance card is arrested for a precluding offense, DPS is notified, the person’s card is revoked and the agency where the person is employed is apprised. (Last year alarm installers, also regulated by BTR, were added to the Fingerprint Clearance Card process).

I have a scheduled meeting in July 2018 with the Administrative Service Manager of the Applicant Clearance Card Team to further discuss the legislative impact for 2018-2019. Signed by Governor Ducey on 3/23/2018.

SB 1164: DES; FINGERPRINT CARD; TAX INFORMATION

Requires an employee or contractor who has access to federal tax information to obtain a Level 1 Fingerprint Clearance Card (“FCC”). Requires an employee or contractor to certify on a notarized form that the person is not awaiting trial or been convicted of any criminal offense, in Arizona or another state, that would preclude them from acquiring a valid FCC.

Signed by Governor Ducey on 4/10/2017.

SB 1072: DCS; CONTRACTOR EMPLOYEES; FINGERPRINT REQUIREMENT

Clarifies that a Department of Child Safety (“DCS”) Information Technology (“IT”) employee, contractor or subcontractor must have a level I fingerprint clearance card if the employee has access to DCS information as a part of their job duties. (Essentially, this law is already in place, and the most recent Bill intended to clarify who the FCC requirement applies to)

Current Law

Currently, DCS requires a fingerprint clearance card for employees of contractors and subcontractors who are employed in IT positions and who will have access to DCS information in any state data system. DCS prohibits employees from having access to DCS information until the employee meets the fingerprint clearance card requirement, and requires that an employee who fails to obtain a fingerprint clearance card be immediately denied access to any DCS IT system ([A.R.S § 8-463](#)). Becomes effective on the general effective date.

I have a scheduled meeting in July 2018 with the Administrative Service Manager of the Applicant Clearance Card Team to further discuss the legislative impact for 2018-2019. Signed by Governor Ducey on 3/16/2018.

SB 1218: DEVELOPMENTAL HOMES; LICENSURE; INVESTIGATIONS

Requires the Arizona Department of Economic Security (“DES”) to visit and inspect each Home annually.

1. Stipulates that DES may deny, suspend or revoke a Home license if:
 - a. An employee, applicant, licensee or adult household member of a Home is the subject of a proposed substantiated or a substantiated finding of abuse, neglect, or exploitation by Adult Protective Services or the Department of Child Safety;
 - b. An applicant, licensee or adult household member of a Home fails to obtain a level one fingerprint clearance card; and
 - c. An employee applicant, licensee volunteer or adult household member of a Home is alleged to have abused, neglected or exploited a vulnerable adult and ADES intends to enter a substantiated finding against a vulnerable adult in the Adult Protective Services registry.
2. Clarifies that an applicant, licensee, volunteer or adult household member of a home must have a Level 1 fingerprint clearance card.

Essentially, this law is already in place, and the most recent Bill intended to clarify that they must maintain a valid FCC, not just upon initial licensure.

I have a scheduled meeting in July 2018 with the Administrative Service Manager of the Applicant Clearance Card Team to further discuss the legislative impact for 2018-2019. Signed by Governor Ducey on 4/17/2018.

HOUSE BILLS

HB 2235: DENTAL THERAPY; REGULATION; LICENSURE

Creates a new dental provider known as a dental therapist. Includes dental therapists in all relevant Board statutes. Permits a dental therapist to practice under the direct supervision of a dentist or pursuant to an Agreement for services. Caps the number of Agreements a dentist may enter at four.

1. Requires an individual applying for licensure as a dental therapist to:
 - a. Apply to the Board of Dental Examiners;
 - b. Verify the truthfulness of the application; and
 - c. Submit a photo and pay an application fee as established in rule.
2. Permits the Board to issue a dental therapy license to an applicant who:
 - a. Is a licensed dental hygienist;
 - b. Graduates from a CODA accredited program;
 - c. Successfully passes specified examinations within five years preceding a licensure application;
 - d. Is not subject to any grounds for application denial;
 - e. **Obtains a fingerprint clearance card**; and
 - f. Meets licensure requirements established by Board rule.

I have a scheduled meeting in July 2018 with the Administrative Service Manager of the Applicant Clearance Card Team to further discuss the legislative impact for 2018-2019. I will also speak with the Executive Director of the Board of Dental Examiners to help determine the impact this will have on the Board's caseload.
Signed by Governor Ducey on 5/16/2018.