

## **APPLICANT INFORMATION: USE OF CRIMINAL HISTORY RECORDS**

The NC Board of Funeral Service asks questions about an applicant's criminal, disciplinary and employment history to assist the Board in determining if the application should be granted, or if there is a valid basis for denying an application. In addition to the questions on the applications, the Board may conduct a formal criminal or disciplinary history check. Answering "yes" to any of these questions or having a conviction, disciplinary or adverse employment action is not automatically a basis for denial of licensure.

**When an applicant has a criminal conviction, the Board will consider:**

- (1) The level and seriousness of the crime;**
- (2) The date of the crime;**
- (3) The age of the person at the time of the crime;**
- (4) The circumstances surrounding the commission of the crime, if known;**
- (5) The nexus between the criminal conduct and the prospective duties of the applicant as a licensee;**
- (6) The prison, jail, probation, parole, rehabilitation, and employment records of the applicant since the date the crime was committed;**
  - (6a) The completion of, or active participation in, rehabilitative drug or alcohol treatment;**
  - (6b) A Certificate of Relief granted pursuant to North Carolina Gen. Stat. § 15A-173.2;**
- (7) The subsequent commission of a crime by the applicant; and**
- (8) Any affidavits or other written documents, including character references.**

The Board may consider any similar aggravating or mitigating circumstances with respect to the applicant's disciplinary and employment history. If Board staff is unable to approve an application, the applicant has the right to request to have that application heard by the members of the Board. Any such request must be submitted in writing to the Board's Executive Director. The Board will conduct that hearing pursuant to the North Carolina Administrative Procedure Act. As a result of the evidence presented at that hearing and considering the considerations outlined above, the Board may refuse to grant a license if it finds any of the grounds for doing so under North Carolina Gen. Stat. § 90-210.25.

If the applicant is aggrieved by the Board's final decision, the applicant may seek review of the decision by filing a petition for judicial review in the Superior Court. The procedures for seeking judicial review can be found in Article 4 of the Administrative Procedure Act, North Carolina Gen. Stat. § 150B-43 et seq. There are specific timelines and procedures for these proceedings, and failure to follow them may lead to the Superior Court dismissing or denying a petition. Therefore, close and prompt attention to the Administrative Procedure Act is required.