

Exemptions

What are Exemptions for?

When seeking employment at facilities regulated by the Agency for Health Care Administration (AHCA), licensees must have a Level 2 background check conducted by AHCA. If offenses covered by Sections 435.04 and 408.809, F.S., are revealed on that background check, AHCA will issue a determination letter stating that the licensee is ineligible for employment at the facility. A full list of these offenses is found in the exemption application. However, Florida law provides that licensees with these offenses may be made eligible by the licensing Board by obtaining an exemption.

Exemptions do not need to be issued for each license a nurse may obtain. Once an exemption is issued for any license (CNA, LPN, or RN), all licenses issued previously and in the future are covered by that exemption.

Statutory Changes

Previously, exemptions could be issued based on Level 1 background checks. In August 2010, legislation became effective requiring all exemptions to be issued based on Level 2 background checks. Any exemption issued prior to August 2010 based on a Level 1 background check is considered void. Licensees with this type of exemption will be required to re-apply for a new exemption to continue working at AHCA-regulated facilities.

How Do I Apply?

The exemption process begins with AHCA's ineligible determination. Following this determination, licensees may submit a Florida Board of Nursing Exemption Application. The application can be downloaded from the Board of Nursing website at http://doh.state.fl.us/mqa/nursing/ap_exemption.pdf. There is no online application. Exemption applicants must submit \$48 and two sets of fingerprint cards (http://doh.state.fl.us/mqa/nursing/info_fingerprints.pdf) in order to have a Level 2 Background check run. However, licensees who have had a Level 2 background check run at AHCA within the last six months do not need to submit the fee or fingerprint cards.

Please Note: Level 2 Background checks run by the Board of Nursing or obtained from AHCA for exemptions cannot be used to obtain licensure. Example: A nurse who obtains an exemption for his/her LPN license cannot use the same background report for licensure as an RN.

Required Documentation

The following documentation is required of all exemption applicants:

- a detailed **self explanation** of each disqualifying offense – must include the age of the individuals involved and their relationship to the applicant, as well as the narrative of events
- **arrest reports** for each disqualifying offense
- **official court dispositions** for each disqualifying offense – must include the charges, the verdict/outcome of the case, and any sentencing information – generally available from the Clerk of Court in the jurisdiction where the offense occurred – website printouts are not accepted
- **proof completion** of probation, parole or pre-trial intervention program – must include the start date and end date of the sentence requirements – generally available from the Department of Corrections or the Clerk of Court in the jurisdiction where the offense occurred
- **recommendation letters** – three or more letters of professional recommendation – must be dated within the past year
- **proof of rehabilitation** – shows that the applicant is not a danger to themselves or others – can include continuing education, special awards and other recognition

Documentation does not need to be submitted for offenses that are not covered by Sections 435.07 and 408.809, F.S., although the Board of Nursing may request documents for some offenses if it is not clear if the offense on a background report is covered by these statutes. Example: Controlled substance charges where the level of the offense (misdemeanor or felony) is not indicated on the report. Felony charges require an exemption; misdemeanors do not.

Processing of Applications

Exemption applications are reviewed within 30 days of receipt by the Florida Board of Nursing. At that time, if any of the above listed documentation is missing, a deficiency letter will be sent to the applicant requesting that documentation. If the file is complete, the Florida Board of Nursing will make a determination on the exemption. The decision will be immediately transferred to AHCA and posted on their website; licensees do not need to request to have this information forwarded to AHCA.

Statuses Shown on AHCA's website

Applied – Once an exemption application is received by the Board of Nursing, this status is posted to AHCA's website and will remain in this status until the application is completed and the final status is posted.

Granted – Completed applications that meet all requirements will be issued an exemption letter stating the Florida Statute covering the offense for which the exemption is granted. Any additional charges not listed are not covered by Sections 435.04 or 408.809, F.S. These licensees are considered eligible for employment at AHCA regulated facilities.

Not Disqualified – Completed applications that meet all requirements but that do not have disqualifying offenses listed in Sections 435.04 and 408.809, F.S., are issued non-disqualification letters. This means that no disqualifying offenses were found on the licensee's background. Often, these will be issued when a licensee was arrested for a disqualifying offense but the offense was reduced or dropped when the case went to court. Example: An arrest for felony possession of a controlled substance (disqualifying) was reduced to a misdemeanor drug possession charge (not disqualifying). These licensees are considered eligible for employment at AHCA regulated facilities.

Denied – Applicants who have open cases or are still completing sentence requirements for misdemeanor offenses covered by Section 435.04, F.S., and applicants who have completed sentence requirements within the past three years for felony offenses covered by Section 435.04, F.S. are ineligible to receive an exemption (Section 435.07(1)(a-b), F.S.) Additionally, applicants who are sexual predators, sexual offenders or career offenders are ineligible to receive an exemption (Section 435.07(4)(b), F.S.). Applications that fall into these categories cannot be cleared by staff and must be sent before the full Board for review at the next available Board Meeting (http://doh.state.fl.us/mqa/nursing/nur_meeting.html#). These licensees are considered ineligible for employment at AHCA regulated facilities.