



Convictions Barring Employment or Disqualifying a person from HHSC¹ Licensure as a Nurse Aide (NA) or Medication Aide (MA)

Convictions <ul style="list-style-type: none"> • HSC: Health and Safety Code • TOC: Occupations Code • PC: Penal Code 	HSC §250.006: Convictions Barring Employment of a Medication Aide subject to ch. 250 or a Nurse Aide.²	HSC §250.006: Convictions creating 5-year Bar to Employment involving consumer contact for a Medication Aide subject to chapter 250 or a Nurse Aide.	Convictions described in TOC §53.021(a)(2) & (3) that will be disqualifying for HHSC NA or MA Licensure.^{3,4}
Criminal solicitation of a capital offense (first degree felony under Section 15.03, Penal Code)	<p>No</p>	<p>No</p>	<p>Yes</p>

¹ Health and Human Services Commission

² The convictions listed in this first column concerning employment bars also include a conviction under the laws of another state, federal law, or the Uniform Code of Military Justice for an offense containing elements that are substantially similar to the elements of an offense listed in this column.

³ Even if the last column of disqualifying convictions for HHSC NA or MA licensure displays a “No,” HHSC may still take adverse licensure action against an MA or NA applicant or licensee for a conviction other than one described in TOC §53.021(a)(2) & (3), if the offense directly relates to the duties and responsibilities of the licensed occupation and HHSC has determined adverse action is warranted after considering relevant factors and following applicable procedures described in TOC chapter 53 and otherwise required by law. HHSC may consider adverse licensure action under these alternative procedures for convictions for offenses listed under the permanent or 5-year employment bar columns that are not also listed as convictions that will be disqualifying for HHSC MA or NA licensure. It may also do so for convictions of other offenses listed in Title 26, Texas Administrative Code §557.121 that are not also listed in the last column as convictions that will be disqualifying for HHSC MA or NA licensure, such as convictions, other than for a Class C misdemeanor, for sale or display of harmful material to a minor (PC §43.24), and possession or promotion of child pornography (PC §43.26).

⁴ A conviction under the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice with elements that are substantially similar to the elements of an offense under PC Section [21.02](#), [21.11\(a\)\(1\)](#), [22.011](#), [22.021](#), 43.25, 20.04(a)(4), or

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Criminal homicide (Chapter 19, Penal Code)	Yes (any criminal homicide)	No	PC §19.02 (Murder) PC §19.03 (capital murder) ⁵
Kidnapping, unlawful restraint, smuggling of persons and related offenses (Chapter 20, Penal Code)	Yes (any chapter 20 offense)	No	PC §20.04 (Aggravated Kidnapping) ⁶
Trafficking of persons (Section 20A.02, Penal Code)	No	No	Yes
Continuous trafficking of persons (Section 20A.03, Penal Code)	No	No	Yes
Continuous sexual abuse of a young child or children (Section 21.02, Penal Code)	Yes	No	Yes

30.02, is also included in the last column to the same extent, as described more fully in the last column and applicable footnotes, as the Penal Code conviction referenced in this footnote to which it has substantially similar elements is included. In addition, the offenses included in the last column as disqualifying for HHSC NA or MA licensure or potentially subject to adverse action under footnote 3 do not include an offense punishable as a Class C misdemeanor.

⁵ Criminal homicide other than murder or capital murder may still be considered for adverse licensure action as described in footnote 3.

⁶ An offense under Chapter 20, Penal Code, other than aggravated kidnapping, may still be considered for adverse licensure action as described in footnote 3.

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<ul style="list-style-type: none"> ● HSC: Health and Safety Code ● TOC: Occupations Code ● PC: Penal Code 			
Indecent exposure (Section 21.08, Penal Code)	Yes	No	No
Indecency with a child (Section 21.11, Penal Code)	Yes	No	PC §21.11(a)(1) (Indecency with a child involving sexual contact) ⁷
Improper relationship between educator and student (Section 21.12, Penal Code)	Yes	No	No
Invasive visual recording (Section 21.15, Penal Code)	Yes	No	No
Assault punishable as a Class A misdemeanor or as a felony (Section 22.01, Penal Code)	No	Yes	No
Sexual assault (Section 22.011, Penal Code)	Yes	No	Yes
Aggravated assault (Section 22.02, Penal Code)	Yes	No	No

⁷ Indecency with a child under a provision of PC §21.11 other than §21.11(a)(1) may still be considered for adverse licensure action as described in footnote 3.

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Aggravated sexual assault (Section 22.021, Penal Code)	Yes	No	Yes
Injury to a child, elderly individual, or disabled individual (Section 22.04, Penal Code)	Yes	No	PC §22.04(a)(1), if punishable as a first-degree felony and the victim is a child. ⁸
Abandoning or endangering a child (Section 22.041, Penal Code)	Yes	No	No
Deadly conduct (Section 22.05, Penal Code)	Yes	No	No
Terroristic threat (Section 22.07, Penal Code)	Yes	No	No
Aiding suicide (Section 22.08, Penal Code)	Yes	No	No

⁸ An offense under PC §22.04(a)(1) is one causing serious bodily injury to a child, elderly individual, or disabled individual. A conviction is listed as a disqualifying only if: (A) the offense is punishable as a felony of the first degree (i.e., it is intentional or knowingly committed conduct); and (B) the victim of the offense is a child. However, an offense under PC §22.04(a)(1) that doesn't meet these conditions, or another offense under PC §22.04, may still be considered for adverse licensure action as described in footnote 3.

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Agreement to abduct from custody (Section 25.031, Penal Code)	Yes	No	No
Sale or purchase of a child (Section 25.08, Penal Code)	Yes	No	No
Arson (Section 28.02, Penal Code)	Yes	No	No
Robbery (Section 29.02, Penal Code)	Yes	No	No
Aggravated robbery (Section 29.03, Penal Code)	Yes	No	Yes
Burglary (Section 30.02, Penal Code)	Yes (as to employment of an MA subject to chapter 250 or an NA in a licensed nursing facility or assisted living facility) ⁹	Yes	Specified PC §30.02 offenses ¹⁰ (if licensure disqualification applies, the licensure disqualification is not time-limited)

⁹ The employment bar for burglary described in this first column for convictions barring employment also applies if the conviction is under the laws of another state or federal law, or under the Uniform Code of Military Justice and has substantially similar elements to burglary under PC §30.02.

¹⁰ A conviction for burglary under section 30.02, Penal Code will be disqualifying for licensure only if:

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Theft punishable as a felony under Chapter 31, Penal Code	No	Yes	No
Misapplication of fiduciary property or property of a financial institution (Section 32.45, Penal Code), where the value of the misapplied property is \$750 or more (i.e., offense is punishable as a Class A misdemeanor or a felony)	No	Yes	No
Securing execution of a document by deception (Section 32.46, Penal Code), where the value of the misapplied property is \$750 or more (i.e., offense is punishable as a Class A misdemeanor or a felony)	No	Yes	No

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- the offense is punishable under PC §30.02(d) (i.e., the premises are a habitation and a party to the offense entered with intent to commit or did commit or attempt to commit a felony other than felony theft); and
 - the actor committed the offense with the intent to commit a felony under Penal Code, Section 21.02 (continuous sexual abuse of a young child or children); 21.11 (indecenty with a child); 22.011 (sexual assault); 22.021 (aggravated sexual assault); 20.04(a)(4) (aggravated kidnapping), with intent to violate or abuse the victim sexually; or 25.02 (prohibited sexual conduct).

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Exploitation of a child, elderly individual, or disabled individual (Section 32.53, Penal Code)	Yes	No	No
Online solicitation of a minor (Section 33.021, Penal Code)	Yes	No	No
Money laundering (Section 34.02, Penal Code)	Yes	No	No
Health care fraud (Section 35A.02, Penal Code)	Yes	No	No
Obstruction or retaliation (Section 36.06, Penal Code)	Yes	No	No
False identification as a peace officer; misrepresentation of property (Section 37.12, Penal Code)	No	Yes	No

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Intentionally or knowingly discharging a firearm in a public place other than a public road or sport shooting range; displaying a firearm or other deadly weapon in a public place in a manner calculated to alarm; or discharging a firearm on or across a public road (Section 42.01(a)(7), (8), or (9), Penal Code)	No	Yes	No
Cruelty to livestock or nonlivestock animals (Section 42.09, Penal Code; Section 42.092, Penal Code)	Yes	No	No
Aggravated Promotion of Prostitution (Section 43.04, Penal Code)	No	No	Yes
Compelling Prostitution (Section 43.05, Penal Code)	No	No	Yes

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Sexual Performance by a Child (Section 43.25, Penal Code)	No	No	Yes
An offense under the Texas Controlled Substances Act (Chapter 481, Health and Safety Code), for which punishment is increased under: (A) HSC Section 481.140 (Use of Child in Commission of Offense); or (B) HSC Section 481.134(c), (d), (e), or (f) (relating to proximity of commission of the offense to school premises, a youth center, a playground, or a school bus) and the defendant has been previously convicted of an offense for which punishment was increased under any of those subsections.	No	No	Yes

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An offense in which: (1) a deadly weapon, as defined by Section 1.07, Penal Code, was used or exhibited during the: (A) commission of a felony offense; or (B) immediate flight from the commission of a felony offense; and (2) the defendant: (A) used or exhibited the deadly weapon; or (B) was a party to the offense and knew that a deadly weapon would be used or exhibited.	No	No	Yes