

**South Dakota Nursing Facility Administrators**

Regular Meeting Agenda

Wednesday March 20, 2024 -- 1:00 pm Central

Teleconference/Zoom

Please register for the Board meeting using the link below. After registering, you will receive a confirmation email containing a unique link that you can use to join the board meeting.

Register: <https://us02web.zoom.us/meeting/register/tZUpde-tqDojHdzpKk444ULRBEV2lJjApFfQ>

- 1) Call to Order
- 2) Open Forum – *5 minutes for the public to address the Board.*
- 3) Approval of Minutes
- 4) Adoption of Agenda
- 5) Financial Report
- 6) Office Update
- 7) Executive Session -1-25-2 (3) and (4)
- 8) New Business
  - a. FY 2025 Board Operations
  - b. Board Policies
  - c. Continuing Education Guidelines
  - d. Board Officer Elections
  - e. Board Meeting Schedule – March 2025
- 9) License Applications
- 10) Announcements: Next Meeting – September 4, 2024 at 1pm Central.
- 11) Adjourn



## South Dakota Board of Nursing Facility Administrators

P.O. Box 340, 1351 N. Harrison Ave. Pierre, SD 57501-0340

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### SOUTH DAKOTA BOARD OF NURSING FACILITY ADMINISTRATORS PUBLIC HEARING SEPTEMBER 20, 2023

President Hinker called the Public Hearing to order at 1:02 pm Central on Wednesday, September 20, 2023 and noted that this was time and place for the Board of Nursing Facility Administrators Public Hearing to consider changes to the administrative rules as provided in the Notice of Public Hearing to Adopt Rules.

Hearing Officer: Justin Hinker

Members of the Board: Justin Hinker, Tim Yeaton and Marilyn Kinsman

Board staff: Brittany Novotny and Lisa Harsma

Legal Counsel: Shelly Munson

President Hinker noted that statements made during the hearing were being recorded in the minutes, due notice of this public hearing was published in three South Dakota newspapers and was made to interested parties in advance of the hearing. President Hinker noted that the proposed rules had been edited for compliance with the requirements for form, style and legality as requested by the South Dakota Legislative Research Council pursuant to SDCL 1-26.

President Hinker discussed the proposed rules, noting that the proposed rules will complete a fee update that was originally scheduled in 2020 and delayed due to the pandemic and will also update certain statutory references.

**Written Testimony:** President Hinker entered into the record the following letters that were received prior to the hearing:

- A. SD Association of Healthcare Organizations – Letter of Support
- B. SD Health Care Association – Letter of Support
- C. Michael Christensen - Recommendation

**Verbal Testimony:** There was no verbal testimony.

President Hinker closed testimony and opened the public hearing to Board Discussion and/or action.

The letter received from Michael Christensen was reviewed. The Board highlighted that the language in administrative rule is consistent with the language in the corresponding statute. The

Board expressed appreciation for the feedback but felt that keeping the language in statute and administrative rule consistent was important and therefore did not adopt the recommendation.

Yeaton moved that the South Dakota Board of Nursing Facility Administrators approve the adoption of the amended rules 20:49:04:01; 20:49:05:01; 20:49:06:01; 20:49:08:01; 20:49:08:01.01; 20:49:08:02; 20:49:15:01; 20:49:15:02 including the LRC edits for compliance with the requirements for form, style and legality. Second by Hinker. Motion carried.

There being no further business, the public hearing was adjourned at 1:08 p.m.

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Jason Hanssen  
Secretary



South Dakota Board of Nursing Facility Administrators  
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South Dakota Board of Nursing Facility Administrators  
Teleconference Board Meeting  
September 20, 2023

President Hinker called the meeting to order at 1:10 pm Central.

**Members of the Board present via teleconference:** Justin Hinker, Tim Yeaton, Daryl Reinicke and Marilyn Kinsman.

**Board staff in attendance via teleconference:** Brittany Novotny and Lisa Harsma.

**Legal Counsel in attendance via teleconference:** Shelly Munson.

**Guests in attendance via teleconference:** Cassandra Deffenbaugh, Diana Weiland and Heather Krzmarzick.

Hinker called for public testimony during the open forum. There was no public testimony.

Motion to approve the minutes of the April 5, 2023 Board Meeting by Yeaton. Second by Hinker. Motion carried.

Motion to approve the agenda by Yeaton. Second by Hinker. Motion carried.

Motion to approve the financial report by Yeaton. Second by Kinsman. Motion carried.

Novotny provided an office update.

Heather Krzmarzick from the Department of Human Services provided an update on the Division of Long Term Services and Supports.

Cassandra Deffenbaugh from the Department of Health provided an update on the Department of Health Office of Health Facilities Licensure and Certification.

Novotny reviewed the updated Department of Health website.

Motion to move into Executive Session per SDCL 1-25-2 (3) by Yeaton. Second by Kinsman. Motion carried. The Board went into Executive Session at 1:42 pm.

Motion to move out of Executive Session by Yeaton. Second by Kinsman. Motion carried. The Board came out of Executive Session at 1:50 pm.

Motion to approve Nursing Facility Administrator licenses for Marcus Block, Clay Brouwer, Blake Minsaas, Molly Wright, Nicole Donahue, Tyler Donahue, Stephen Schmitz and Amanda Peterson and Emergency Permits for Brenda Carda, Elizabeth DeBerg, Chase Watson, Brian Williams Kathy Peterson and Molly Wright by Yeaton. Second by Kinsman. Motion carried.

The Board announced meeting dates of March 20, 2024 and September 4, 2024.

Motion by Yeaton to adjourn the meeting. Second by Kinsman. Motion carried. The meeting was adjourned at 1:55 pm.

Respectfully Submitted,

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Jason Hanssen  
Secretary

# Remaining Authority by Object/Subobject

Expenditures current through 03/02/2024 01:20:32 PM

HEALTH -- Summary

FY 2024 Version -- AS -- Budgeted and Informational

FY Remaining: 33.2 %

09207	Board of Nursing Home Admin - Info					PCT
Subobject	Operating	Expenditures	Encumbrances	Commitments	Remaining	AVL
<b>EMPLOYEE SALARIES</b>						
5101030 Board & Comm Mbrs Fees	3,609	0	0	0	3,609	100.0
<b>Subtotal</b>	<b>3,609</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3,609</b>	<b>100.0</b>
<b>EMPLOYEE BENEFITS</b>						
5102010 Oasi-employer's Share	362	0	0	0	362	100.0
<b>Subtotal</b>	<b>362</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>362</b>	<b>100.0</b>
<b>51 Personal Services</b>						
<b>Subtotal</b>	<b>3,971</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3,971</b>	<b>100.0</b>
<b>TRAVEL</b>						
5203030 Auto-priv (in-st.) H/rte	1,200	0	0	0	1,200	100.0
5203100 Lodging/in-state	456	0	0	0	456	100.0
5203120 Incidentals-travel-in St.	88	0	0	0	88	100.0
5203130 Non-employ. Travel-in St.	500	0	0	0	500	100.0
5203140 Meals/taxable/in-state	176	0	0	0	176	100.0
5203150 Non-taxable Meals/in-st	50	0	0	0	50	100.0
5203260 Air-comm-out-of-state	185	0	0	0	185	100.0
5203280 Other-public-out-of-state	50	0	0	0	50	100.0
5203300 Lodging/out-state	200	0	0	0	200	100.0
5203320 Incidentals-out-of-state	50	0	0	0	50	100.0
5203350 Non-taxable Meals/out-st	100	0	0	0	100	100.0
<b>Subtotal</b>	<b>3,055</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3,055</b>	<b>100.0</b>
<b>CONTRACTUAL SERVICES</b>						
5204020 Dues & Membership Fees	1,500	2,000	0	0	-500	0.0
5204050 Computer Consultant	6,500	101	5,600	0	799	12.3
5204080 Legal Consultant	2,138	154	0	0	1,984	92.8
5204090 Management Consultant	43,634	22,060	17,660	0	3,914	9.0
5204160 Workshop Registration Fee	50	0	0	0	50	100.0
5204181 Computer Services-state	465	0	0	0	465	100.0
5204200 Central Services	866	458	0	0	408	47.1
5204204 Central Services	305	448	0	0	-143	0.0
5204207 Central Services	610	0	0	0	610	100.0
5204360 Advertising-newspaper	100	0	0	0	100	100.0
5204430 Publishing	0	171	0	0	-171	0.0
5204510 Rents-other	300	0	0	0	300	100.0
5204530 Telecommunications Srvcs	1,500	0	0	0	1,500	100.0

# Remaining Authority by Object/Subobject

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HEALTH -- Summary

FY 2024 Version -- AS -- Budgeted and Informational

FY Remaining: 33.2 %

09207	Board of Nursing Home Admin - Info						PCT
Subobject		Operating	Expenditures	Encumbrances	Commitments	Remaining	AVL
5204590	Ins Premiums & Surety Bds	2,300	0	0	0	2,300	100.0
5204960	Other Contractual Service	1,500	260	0	0	1,240	82.7
<b>Subtotal</b>		<b>61,768</b>	<b>25,652</b>	<b>23,260</b>	<b>0</b>	<b>12,856</b>	<b>20.8</b>
<b>SUPPLIES &amp; MATERIALS</b>							
5205310	Printing-state	500	0	0	0	500	100.0
5205320	Printing-commercial	500	0	0	0	500	100.0
5205350	Postage	900	77	0	0	823	91.4
5205390	Food Stuffs	50	0	0	0	50	100.0
<b>Subtotal</b>		<b>1,950</b>	<b>77</b>	<b>0</b>	<b>0</b>	<b>1,873</b>	<b>96.1</b>
<b>52 Operating</b>							
<b>Subtotal</b>		<b>66,773</b>	<b>25,729</b>	<b>23,260</b>	<b>0</b>	<b>17,784</b>	<b>26.6</b>
<b>Total</b>							
<b>Total</b>		<b>70,744</b>	<b>25,729</b>	<b>23,260</b>	<b>0</b>	<b>21,755</b>	<b>30.8</b>

BA0225R5 03/02/2024

STATE OF SOUTH DAKOTA  
REVENUE SUMMARY BY BUDGET UNIT  
FOR PERIOD ENDING: 02/29/2024

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AGENCY 09 HEALTH  
BUDGET UNIT 09207 BOARD OF NURSING HOME ADMIN - INFO

CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE	
COMPANY NO 6503						
COMPANY NAME PROFESSIONAL & LICENSING BOARDS						
092070061816	6503	4293975	INITIAL APP'L - NHA	390.00	1,980.00	
092070061816	6503	4293976	RECIPROCITY APP'L - NHA	.00	990.00	
092070061816	6503	4293977	EMERGENCY TEMP LIC-NHA	.00	1,800.00	
092070061816	6503	4293978	EXAM FEE-HNA	.00	900.00	
092070061816	6503	4293980	REACTIVATION FEE	.00	400.00	
ACCT:	4293	BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)		390.00	6,070.00	*
ACCT:	42	LICENSES, PERMITS & FEES		390.00	6,070.00	**
092070061816	6503	4896019	MISC INCOME-NHA	.00	175.00	
ACCT:	4896			.00	175.00	*
ACCT:	48	OTHER REVENUE		.00	175.00	**
092070061816	6503	4920045	NONOPERATING REVENUES	.00	1,040.90	
ACCT:	4920	NONOPERATING REVENUE		.00	1,040.90	*
ACCT:	49	OTHER REVENUE		.00	1,040.90	**
CNTR:	092070061816			390.00	7,285.90	***
CNTR:	092070061			390.00	7,285.90	****
CNTR:	0920700			390.00	7,285.90	*****
COMP:	6503			390.00	7,285.90	*****
B UNIT:	09207			390.00	7,285.90	*****



BA1409R1

STATE OF SOUTH DAKOTA  
CASH CENTER BALANCES  
AS OF: 02/29/2024

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AGENCY: 09 HEALTH  
BUDGET UNIT: 09207 BOARD OF NURSING HOME ADMIN - INFO

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	092000061816	1140000	41,345.92	DR	BOARD OF NURSING FACILITY ADMINISTRATORS
COMPANY/SOURCE TOTAL 6503 618			41,345.92	DR *	
COMP/BUDG UNIT TOTAL 6503 09207			41,345.92	DR **	
BUDGET UNIT TOTAL 09207			41,345.92	DR ***	

# ***Code of Conduct and Conflict of Interest Policy for Use By State Authority, Board, Commission, and Committee Members***

## ***Purpose***

The purpose of this code of conduct and conflict of interest policy ("Code") is to establish a set of ethical principles and guidelines for members of state authorities, boards, commissions, or committees when acting within their official public service capacity. This Code applies to all appointed and elected members of state authorities, boards, commissions, and committees (hereinafter "Boards" and "Board member(s)").

## ***Conflict of Interest for Board Members***

Board members may be subject to statutory restrictions specific to their Boards found in state and federal laws, rules and regulations. Those restrictions are beyond the scope of this Code. Board members should contact their appointing authority or the attorney for the Board for information regarding restrictions specific to their Board.

## ***General Restrictions on Participation in Board Actions***

A conflict of interest exists when a Board member has an interest in a matter that is different from the interest of members of the general public. Examples of circumstances which may create a conflict of interest include a personal or pecuniary interest in the matter or an existing or potential employment relationship with a party involved in the proceeding.

Whether or not a conflict of interest requires a Board member to abstain from participation in an official action of the Board depends upon the type of action involved. A Board's official actions are either quasi-judicial or quasi-legislative. A quasi-judicial official action is particular and immediate in effect, such as a review of an application for a license or permit. In order to participate in a quasi-judicial official action of the Board, a Board member must be disinterested and free from actual bias or an unacceptable risk of actual bias. A Board member must abstain from participation in the discussion and vote on a quasi-judicial official action of the Board if a reasonably-minded person could conclude that there is an unacceptable risk that the Board member has prejudged the matter or that the Board member's interest or relationship creates a potential to influence the member's impartiality.

A quasi-legislative official action, also referred to as a regulatory action, is general and future in effect. An example is rule-making. If the official action involved is quasi-legislative in nature, the Board member is not required to abstain from participation in the discussion and vote on the action.

unless it is clear that the member has an unalterably closed mind on matters critical to the disposition of the action.

“Official action” means a decision, recommendation, approval, disapproval or other action which involves discretionary authority. A Board member who violates any of these restrictions may be subject to removal from the Board to which the member is appointed.

### ***Contract Restrictions***

There are federal and state laws, rules and regulations that address conflict of interest for elected and appointed Board members in the area of contracts. As an initial matter, a Board member may not solicit or accept any gift, favor, reward, or promise of reward, including any promise of future employment, in exchange for recommending, influencing or attempting to influence the award of or the terms of a state contract. This prohibition is absolute and cannot be waived.

Members of certain Boards are required to comply with additional conflict of interest provisions found in SDCL Chapter 3-23 and are required to make an annual disclosure of any contract in which they have or may have an interest or from which they derive a direct benefit. The restrictions apply for one year following the end of the Board member’s term. The Boards impacted by these laws are enumerated within SDCL 3-23-10. For more information on these provisions, see the State Authorities/Boards/Commissions page in the Legal Resources section of the Attorney General’s website at: <http://atg.sd.gov/legal/opengovernment/authorityboardcommission.aspx>.

Absent a waiver, certain Board members are further prohibited from deriving a direct benefit from a contract with an outside entity if the Board member had substantial involvement in recommending, awarding, or administering the contract or if the Board member supervised another state officer or employee who approved, awarded or administered the contract. With the exception of employment contracts, the foregoing prohibition applies for one year following the end of the Board member’s term. However, the foregoing prohibition does not apply to Board members who serve without compensation or who are only paid a per diem. See SDCL 5-18A-17 to 5-18A-17.6. For more information on these restrictions see the Conflict of Interest Waiver Instructions and Form on the South Dakota Bureau of Human Resources website at: <http://bhr.sd.gov/forms/>.

Other federal and state laws, rules and regulations may apply to specific Boards. For general questions regarding the applicability of SDCL Chapter 3-23 or other laws, a Board member may contact the attorney for the Board. However, because the attorney for the Board does not represent the Board member in his or her individual capacity, a Board member should contact a private attorney if the member has questions as to how the conflict of interest laws apply to the Board member’s own interests and contracts.

### ***Consequences of Violations of Conflict of Interest Laws***

A contract entered into in violation of conflict of interest laws is voidable and any benefit received by the Board member is subject to disgorgement. In addition, a Board member who violates conflict of interest laws may be removed from the Board and may be subject to criminal prosecution. For example, a Board member may be prosecuted for theft if the member knowingly

uses funds or property entrusted to the member in violation of public trust and the use resulted in a direct financial benefit to the member. See SDCL 3-16-7, 5-18A-17.4, and 22-30-46.

### ***Retaliation for Reporting***

A Board cannot dismiss, suspend, demote, decrease the compensation of, or take any other retaliatory action against an employee because the employee reports, in good faith, a violation or suspected violation of a law or rule, an abuse of funds or abuse of authority, a substantial and specific danger to public health or safety, or a direct criminal conflict of interest, unless the report is specifically prohibited by law. SDCL 3-16-9 & 3-16-10.

Board members will not engage in retaliatory treatment of an individual because the individual reports harassment, opposes discrimination, participates in the complaint process, or provides information related to a complaint. See SDCL 20-13-26.

### ***Anti-Harassment/Discrimination Policy***

While acting within their official capacity, Board members will not engage in harassment or discriminatory or offensive behavior based on race, color, creed, religion, national origin, sex, pregnancy, age, ancestry, genetic information, disability or any other legally protected status or characteristic.

Harassment includes conduct that creates a hostile work environment for an employee or another Board member. This prohibition against harassment and discrimination also encompasses sexual harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexually harassing nature, when: (1) submission to or rejection of the harassment is made either explicitly or implicitly the basis of or a condition of employment, appointment, or a favorable or unfavorable action by the Board member; or (2) the harassment has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Harassment or discriminatory or offensive behavior may take different forms and may be verbal, nonverbal, or physical in nature. To aid Board members in identifying inappropriate conduct, the following examples of harassment or discriminatory or offensive behavior are provided:

- Unwelcome physical contact such as kissing, fondling, hugging, or touching;
- Demands for sexual favors; sexual innuendoes, suggestive comments, jokes of a sexual nature, sexist put-downs, or sexual remarks about a person's body; sexual propositions, or persistent unwanted courting;
- Swearing, offensive gestures, or graphic language made because of a person's race, color, religion, national origin, sex, age or disability;
- Slurs, jokes, or derogatory remarks, email, or other communications relating to race, color, religion, national origin, sex, age, or disability; or
- Calendars, posters, pictures, drawings, displays, cartoons, images, lists, e-mails, or computer activity that reflects disparagingly upon race, color, religion, national origin, sex, age or disability.

The above cited examples are not intended to be all-inclusive.

A Board member who is in violation of this policy may be subject to removal from the Board.

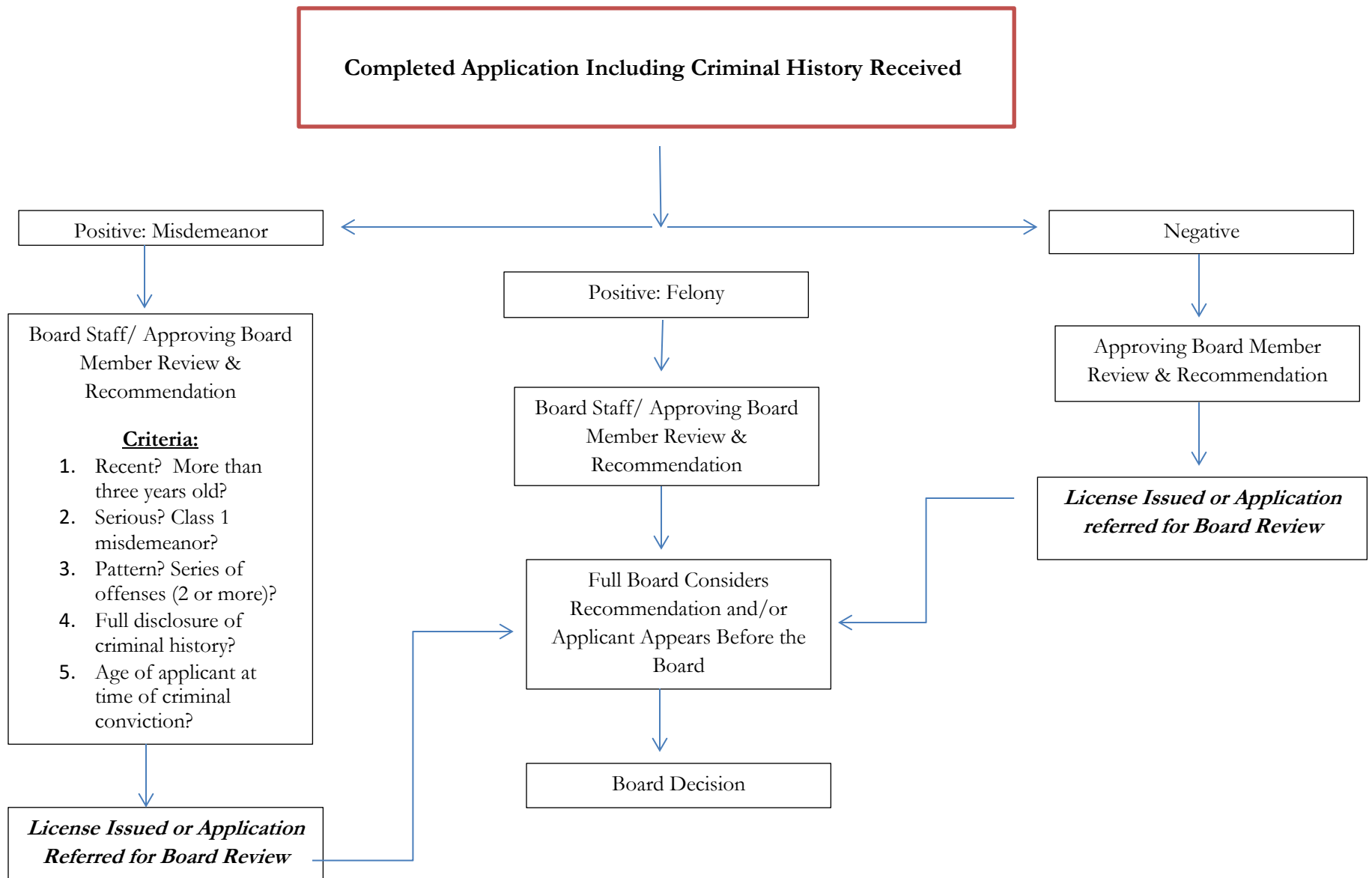
### ***Confidential Information***

Except as otherwise required by law, Board members shall not disclose confidential information acquired during the course of their official duties. In addition, members are prohibited from the use of confidential information for personal gain.

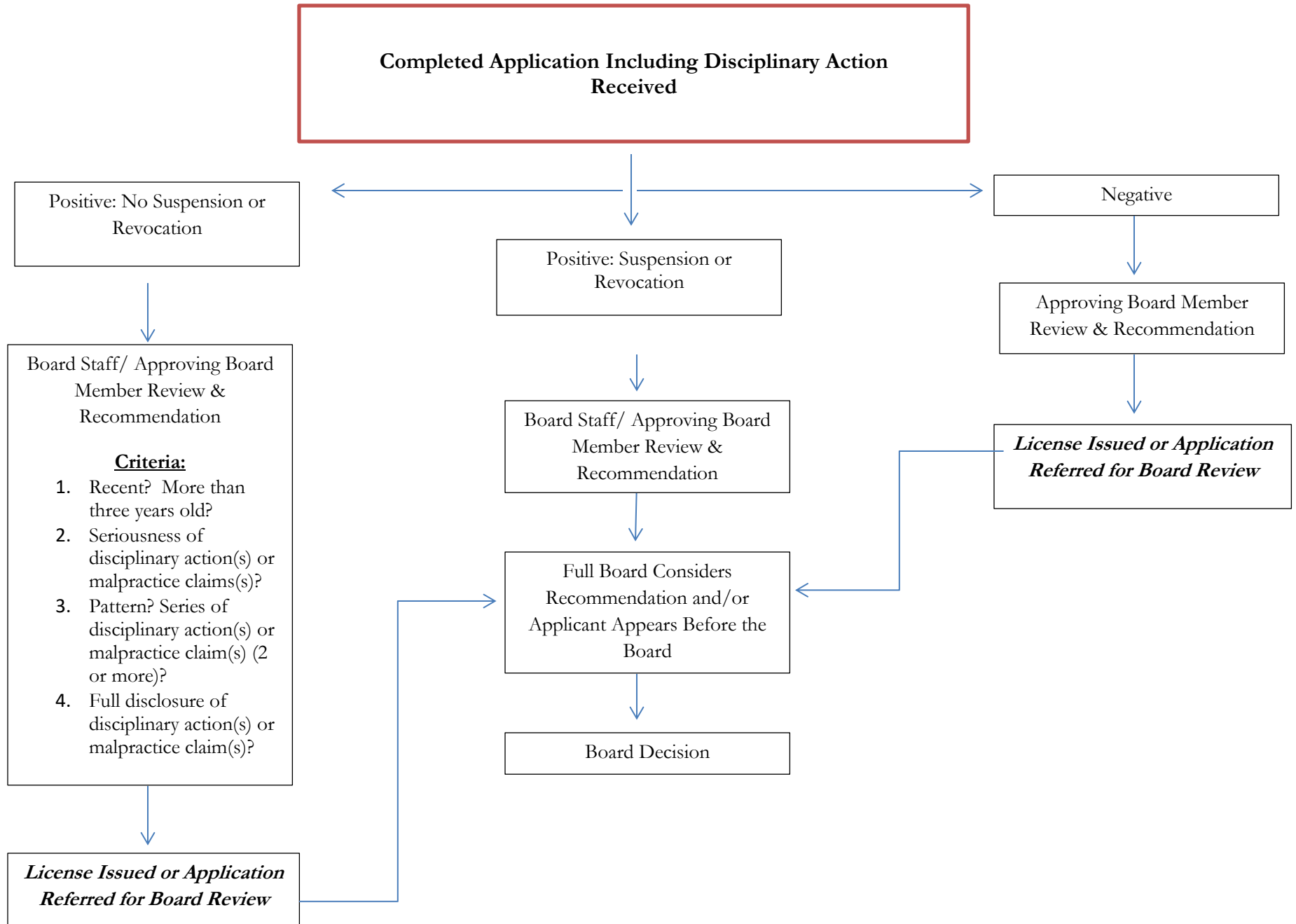
### ***Reporting of Violations***

Any violation of this Code should be reported to the appointing authority for the Board member who is alleged to have violated the Code.

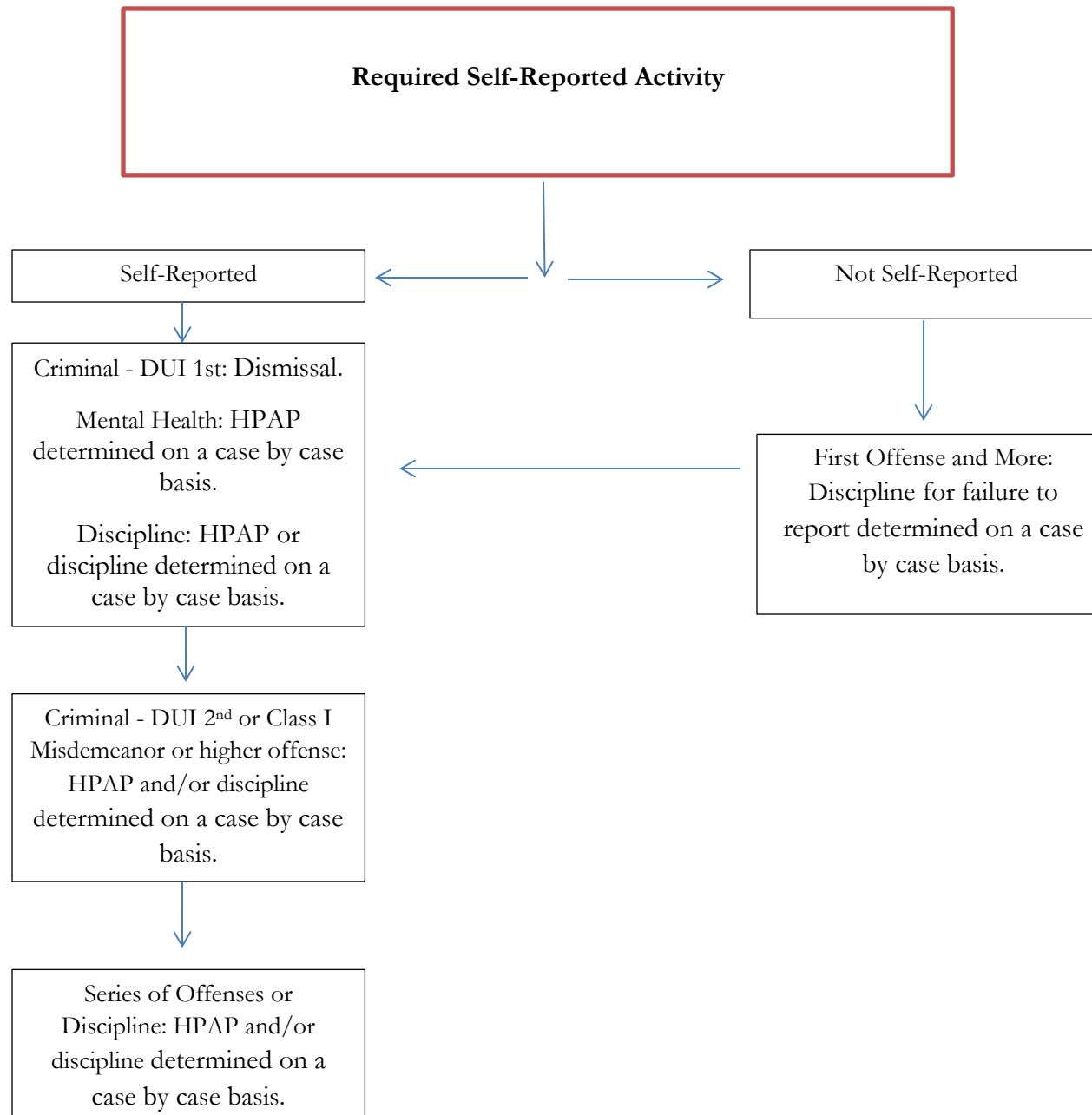
**Criminal History Algorithm:** It is the policy of the Board to use the Criminal History Algorithm as guidance when determining whether to issue a license.



**Disciplinary Action Algorithm:** It is the policy of the Board to use the Disciplinary Action Algorithm as guidance when determining whether to issue a license.

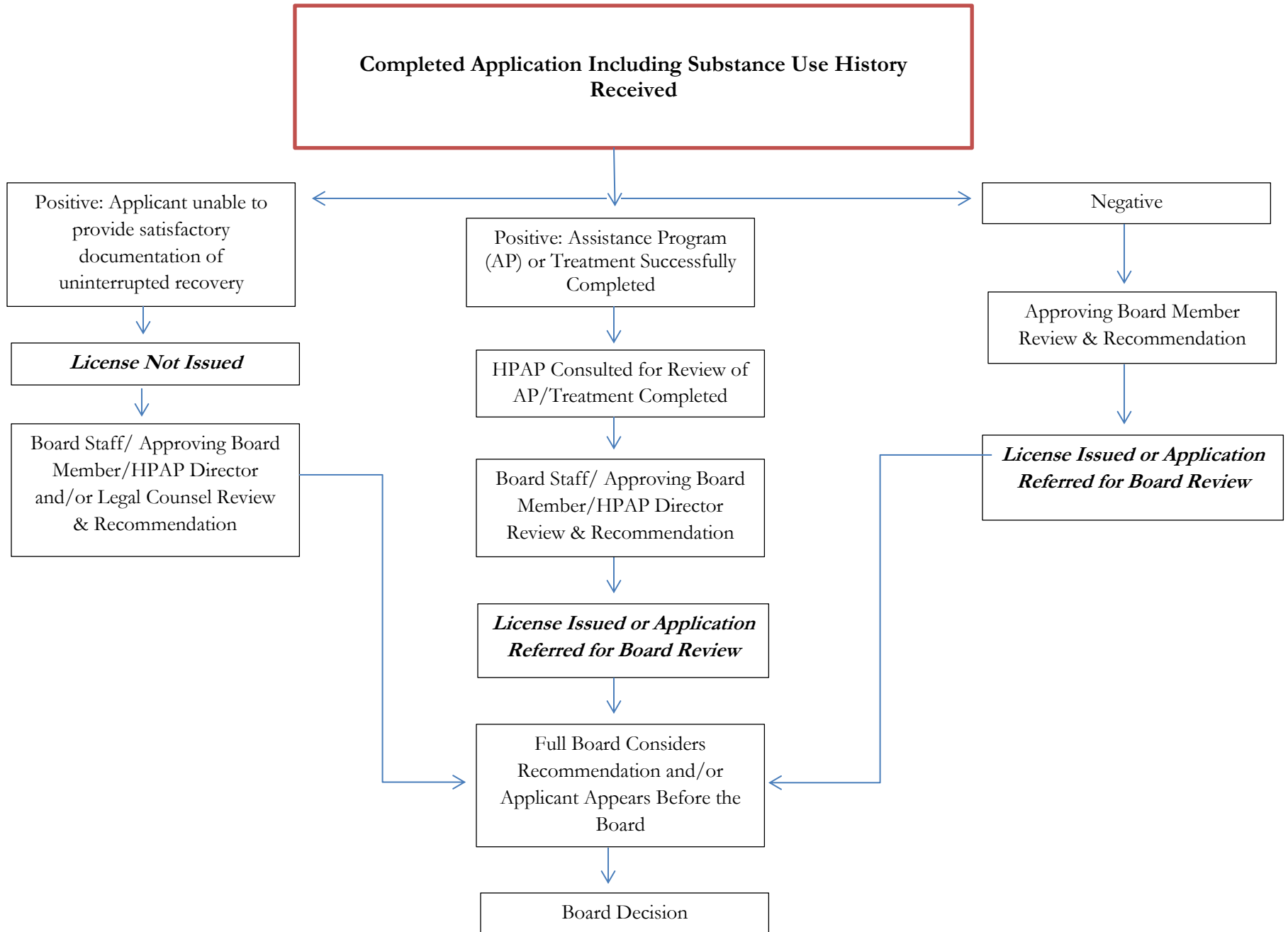


**Self-Reported Activity:** It is the policy of the Board to use the Self-Reported Activity as guidance when reviewing information required to be reported to the Board.





**Substance Use History Algorithm:** It is the policy of the Board to use the Substance Use Algorithm as guidance when determining whether to issue a license.



**Application Review Policy:** It is the policy of the Board to use the Application Review Policy as guidance when determining whether to issue a license or permit. “Complex” encompasses any application or document that includes the disclosure of or absence of information that warrants additional review.

### **Application**

- **Nursing Facility Administrator License Applications:** A completed application will be reviewed and may be approved by board office staff. A complex application will be reviewed and may be approved by a member of the Board.

### **Emergency Permit**

- **Emergency Permit:** A completed application will be reviewed and may be approved by board office staff. A complex application will be reviewed and may be approved by a member of the Board.

### **Preceptor Status**

- **Preceptor Status:** A completed application will be reviewed and may be approved by board office staff. A complex application will be reviewed and may be approved by a member of the Board.



## South Dakota Board of Nursing Facility Administrators

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### CONTINUING EDUCATION GUIDELINES

A minimum of 40 hours of continuing education directly related to the duties of a nursing facility administrator, and pertaining to health care, healthcare administration or business administration, are required biennially for renewal of license. The Board does not limit the number of online courses that a licensee can take. The following continuing education courses are accepted by the South Dakota Board of Nursing Facility Administrators:

- Academic courses directly related to the duties of a nursing facility administrator, and pertaining to health care, healthcare administration or business administration, offered through a higher education institution accredited by an organization recognized by the Council for Higher Education Accreditation (one credit hour = 15 hours of continuing education).
- The Board will accept programs directly related to the duties of a nursing facility administrator, and pertaining to health care, healthcare administration or business administration, that are approved or provided by:
  - Other state licensing boards for nursing facility administrators
  - National Association of Long Term Care Administrator Boards (NAB)
  - American College of Healthcare Executives (ACHE)
  - American College of Health Care Administrators (ACHCA)
  - American Health Care Association (AHCA) and State Affiliates
  - American Hospice Foundation
  - American Hospital Association (AHA) and State Affiliates
  - American Medical Directors Association
  - Catholic Health Association
  - Centers for Medicare and Medicaid Services (CMS)
  - Leading Age (formerly AAHSA) and State Affiliates
  - National Rural Health Association
  - Great Plains Quality Innovation Network
  - Yankton Area Mental Wellness Inc.
  - American Association of Healthcare Administrative Management (AAHAM) and State Affiliates
  - Healthcare Financial Management Association (HFMA) and State Affiliates
  - Systems of care that operate South Dakota nursing home facilities.

The Board does not accept courses specific to a facility's computer programs and/or software.

**SDNFA Board Meeting**

**Licenses that have been issued between  
08/31/2023 and 03/05/2024 (Initial  
Licensure)**

<b>First Name</b>	<b>Last Name</b>
Patrick	Cash
Paula	Henrickson
Michelle	Kettwig
Rachel	Morehouse
Chase	Watson

**Emergency Permits that have been issued  
between 8/31/2023 and 3/5/2024**

<b>First Name</b>	<b>Last Name</b>
Brenda	Carda
Elizabeth	DeBerg
Jordan	Fish
Rachel	Morehouse
Chase	Watson
Brian	Williams
Jessica	Wittrock