

No. 2023-8127

**Official Order
of the
Texas Commissioner of Insurance**

Date: 8/8/2023

Subject Considered:

Texas Department of Insurance

v.

Demetris Lavon Perrin

SOAH Docket No. 454-23-00859.C

General Remarks and Official Action Taken:

The subject of this order is Demetris Lavon Perrin's application for a general lines life, accident, health, and HMO license. This order denies Perrin's application.

Background

After proper notice was given, the above-styled case was heard by an administrative law judge for the State Office of Administrative Hearings. The administrative law judge made and filed a proposal for decision containing a recommendation that Demetris Lavon Perrin's application for license be denied. A copy of the proposal for decision is attached as Exhibit A.

Findings of Fact

The findings of fact contained in Exhibit A are adopted by the commissioner and incorporated by reference into this order.

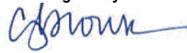
Conclusions of Law

The conclusions of law contained in Exhibit A are adopted by the commissioner and incorporated by reference into this order.

COMMISSIONER'S ORDER
TDI v. Demetris Lavon Perrin
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Order

It is ordered that Demetris Lavon Perri's application for a general lines life, accident, health, and HMO license is denied.

DocuSigned by:

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Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:

DocuSigned by:

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Jessica Barta, General Counsel

DocuSigned by:

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Kara Salmanson, Attorney

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**TEXAS DEPARTMENT OF INSURANCE,
PETITIONER
V.
DEMETRIS LAVON PERRIN,
RESPONDENT**

PROPOSAL FOR DECISION

Demetris Levon Perrin applied to the Texas Department of Insurance (Department) for a general lines life, accident, health, and HMO license (license). Department staff (Staff) seeks to deny the application based upon Mr. Perrin's criminal history. After considering the evidence and the applicable law, the Administrative Law Judge (ALJ) recommends Mr. Perrin's license application be denied.

I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY

On September 9, 2020, Mr. Perrin was issued a temporary license by the Department.¹ On November 10, 2020, Mr. Perrin filed a license application with the Department, and on February 8, 2021, the Department proposed to deny the application based on Mr. Perrin’s criminal history.² Mr. Perrin timely appealed the Department’s proposed denial, and this matter was referred to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.

On December 20, 2022, SOAH ALJ Steve M. Rivas convened a hearing on the merits by Zoom videoconference. Attorney Latoya Merida represented Staff. Mr. Perrin appeared and was by represented attorney Jason Danowsky. The record closed on January 11, 2023, when the ALJ received the exhibits and hearing transcript. Notice and jurisdiction were not disputed by either party and are set out below in the Findings of Fact and Conclusions of Law.

II. APPLICABLE LAW

The Department considers it very important that license holders and applicants are honest, trustworthy, and reliable,³ and will evaluate an applicant’s criminal history and other conduct to determine whether the applicant possesses those qualities. The Department may deny a license application on several grounds,

¹ Perrin Ex. 6.

² Staff Ex. 2.

³ 28 Tex. Admin. Code § 1.502(c).

including if the applicant has engaged in fraudulent or dishonest acts or practices, has been convicted of a felony, or has been convicted of a crime directly related to the duties and responsibilities of the licensed occupation.⁴ For applicants with criminal convictions, the Department considers the factors specified in Texas Occupations Code (Code) sections 53.022 and .023 in determining whether to grant a license to the applicant.⁵

When making a licensing determination, the Department may consider a deferred adjudication to be a conviction if the person has not completed the period of supervision, and if, after considering the factors in Texas Occupations Code §§ 53.022 and 53.023(a), the Department determines that the person may pose a continued threat to public safety or that employment of the person in the licensed occupation would create a situation in which the person has an opportunity to repeat the prohibited conduct.⁶ If, after considering the above-listed factors, the Department determines that a deferred adjudication can be treated as a conviction for licensing purposes, then the same factors are weighed in determining whether the applicant is fit to perform the duties and discharge the responsibilities of the licensed occupation despite the criminal offense.⁷

Texas Occupations Code section 53.022 sets forth the following factors, which address whether a criminal conviction directly relates to the duties and

⁴ Tex. Ins. Code § 4005.101(b)(5), (8); Tex. Occ. Code § 53.021(a)(1).

⁵ 28 Tex. Admin. Code § 1.502(h).

⁶ Tex. Occ. Code § 53.021(d).

⁷ *See* Tex. Occ. Code §§ 53.022-.023(a).

responsibilities of the licensed occupation:

- 1) the nature and seriousness of the crime;
- 2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;
- 3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved;
- 4) the relationship of the crime to the ability or capacity required to perform the duties and discharge the responsibilities of the licensed occupation; and
- 5) any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.⁸

If the Department determines that an offense directly relates to the duties and responsibilities of the licensed occupation, it then considers the following factors prescribed by Code section 53.023, which bear upon an applicant's fitness for licensure despite criminal history, in making its ultimate licensing determination:

- 1) the extent and nature of the person's past criminal activity;
- 2) the age of the person when the crime was committed;
- 3) the amount of time that has elapsed since the person's last criminal activity;
- 4) the conduct and work activity of the person before and after the criminal activity;

⁸ See also 28 Tex. Admin. Code § 1.502(h)(1).

- 5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release;
- 6) evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision; and
- 7) other evidence of the person's fitness, including letters of recommendation.⁹

In addition to the issues regarding an applicant's criminal history or fraudulent or dishonest conduct, the Department may deny a license if the applicant intentionally made a material misstatement in the license application or attempted to obtain a license by fraud or misrepresentation.¹⁰

It is the applicant's responsibility, to the extent possible, to obtain and provide to the Department the applicant's evidence of fitness discussed above.¹¹ Additionally, an applicant must furnish proof to the Department that the applicant has: (1) maintained a record of steady employment; (2) supported the applicant's dependents, where applicable; (3) otherwise maintained a record of good conduct; and (4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.¹²

⁹ See also 28 Tex. Admin. Code § 1.502(h)(2).

¹⁰ Tex. Ins. Code § 4005.101(b)(2)-(3).

¹¹ 28 Tex. Admin. Code § 1.502(h)(3); Tex. Occ. Code § 53.023(b).

¹² 28 Tex. Admin. Code § 1.502(h)(2)(G).

The Department will not issue a license unless, when viewed in light of the occupation being licensed, the mitigating factors outweigh the serious nature of the criminal offense or the fraudulent or dishonest conduct.¹³

Staff has the burden of proving its grounds for denying Mr. Perrin's license application, while Mr. Perrin has the burden to prove his fitness to be licensed despite his criminal history or fraudulent or dishonest conduct.¹⁴ The standard of proof is by a preponderance of the evidence.¹⁵

III. EVIDENCE

Staff called one witness and offered seven exhibits, which were admitted into evidence. Mr. Perrin called himself and two witnesses and offered seven exhibits, which were admitted into evidence.

A. MR. PERRIN'S CRIMINAL HISTORY

On August 18, 1995, Mr. Perrin pleaded nolo contendere to the misdemeanor offense of Driving While License Suspended in Cause No. 415586 in the 7th County Court at Law in Travis County, Texas, for an offense that occurred on May 16, 1994. Mr. Perrin received deferred adjudication for 180 days.

¹³ 28 Tex. Admin. Code § 1.502(f).

¹⁴ 1 Tex. Admin. Code § 155.427.

¹⁵ *Graneke v. Tex. St. Bd. of Med. Examin'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).

Also on August 18, 1995, Mr. Perrin pleaded nolo contendere to the misdemeanor offense of Failure to Maintain Financial Responsibility in Cause No. 415587 in the 7th County Court at Law in Travis County, Texas, for an offense that occurred on May 16, 1994.¹⁶ Mr. Perrin was ordered to pay a \$350 fine.¹⁷

On October 1, 2008, Mr. Perrin pleaded nolo contendere to the misdemeanor offense of Obstruction of Passageway in Cause No. C-1-CR-08-401693 in the 3rd County Court at Law in Travis County, Texas, for an offense that occurred on January 18, 2008.¹⁸ Mr. Perrin received a year of community supervision and was successfully discharged on October 1, 2009.¹⁹

On September 23, 2013, Mr. Perrin pleaded guilty to the second-degree felony offense of Theft of Property (more than or equal to \$200,000) in Cause No. 12-1896-K26 in the 26th Judicial District Court in Williamson County, Texas, for an offense that occurred on March 4, 2008.²⁰ The court deferred adjudication of this offense, sentenced Mr. Perrin to 10 years' community supervision and ordered Mr. Perrin to pay \$263,662.50 restitution.²¹ Mr. Perrin has not been discharged from community

¹⁶ Staff Ex. 6.

¹⁷ *Id.*

¹⁸ Staff Ex. 7.

¹⁹ *Id.*

²⁰ Staff Ex. 5 at 13-19.

²¹ Staff Ex. 5.

supervision for this offense and as of September 28, 2022, owed \$248,243.50 in restitution.²²

Subsequently, Mr. Perrin answered “No” to the following question on his application submitted in November 2020: Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?²³

B. TESTIMONY OF LEWIS WELDON WRIGHT, IV

Mr. Wright is the liaison between the Agent and Adjuster Licensing Office and the Enforcement Division of the Department. He reviews nonstandard license applications and makes recommendations to deny or issue a license.

Mr. Wright testified that under 28 Texas Administrative Code section 1.502(c), the Department considers it to be very important that a licensed individual is honest, trustworthy, and reliable. He stated that consistent with 28 Texas Administrative Code section 1.502, which contains the Department’s guidelines adopted pursuant to Texas Occupations Code section 53.025, certain crimes are considered to be of a more serious nature in determining an individual’s fitness for licensure. He testified that under 28 Texas Administrative Code section 1.502(e)(1), any offense for which fraud, dishonesty or deceit is an essential element is considered to be a serious offense.

²² The amount of restitution is reflected on the Notice of Hearing and Original Petition filed September 28, 2022.

²³ Staff Ex. 5 at 44.

When considering Mr. Perrin's criminal history, Mr. Wright stated that his deferred adjudication for the felony offense of theft can be treated as a conviction because the terms of Mr. Perrin's probation have not been completed and the Department believes Mr. Perrin may pose a continued threat to public safety, or that granting her a license will provide an opportunity to repeat the prohibited conduct. He stated that Mr. Perrin's theft conviction also fell within 28 Texas Administrative Code section 1.502(e)(3) as a crime of moral turpitude and that an individual with an insurance license has increased opportunities to commit a financial crime because the individual has access to money received from applicants, from insured individuals, and from the insurance carriers and intermediary agencies. He noted there was further concern because agents are given confidential information from applicants, such as date of birth, Social Security number, driver's license number, address, and credit card or bank information.

Further, Mr. Wright testified that Mr. Perrin's theft offense was committed in 2008, when he was 37 years old and, thus, cannot be attributed to youthful indiscretion or immaturity. Mr. Wright acknowledged the offense was committed 15 years ago but contended that theft is an offense the Department considers to be a crime of prime importance when determining fitness for licensure. He stated that the nature of an insurance transaction is ripe for misconduct that can cause financial loss to an individual because adjuster licensees have access to places like policyholders' homes, recreational vehicles, and automobiles, giving the licensee an increased opportunity to commit similar crimes.

Additionally, Mr. Wright testified, that because Mr. Perrin has not yet been discharged from community supervision for his theft offense. he has not been able to establish a record of good conduct while not under court supervision. Hence, according to Mr. Wright, the Department is unable to measure Mr. Perrin's character and integrity while not under supervision or complying with a court order. Mr. Wright further noted that it reflects unfavorably upon Mr. Perrin that he still owes \$248,243.50 in restitution for his theft offense.

Mr. Wright further testified that he was concerned that Mr. Perrin responded "No" on his license application to the question of whether he had ever been convicted of a felony or placed on deferred adjudication. According to Mr. Wright, this response reflects a pattern and tendency of Mr. Perrin to engage in fraud, dishonesty, or deceit, which also raises a concern in determining Mr. Perrin's fitness for license.

Mr. Wright testified that while Mr. Perrin's recent work history and rehabilitative efforts are favorable to Mr. Perrin, that evidence is outweighed by the seriousness of his criminal offenses, the fact that has not been discharged from community supervision, and the fact that he is delinquent on restitution. On that basis, Mr. Wright concluded, the Department's decision to deny Ms. Perrin's license application is appropriate.

C. MR. PERRIN'S EVIDENCE

1. Testimony of Mr. Perrin

Mr. Perrin did not deny his criminal history and expressed regret over his past decisions. He testified that in 2008, when he was 37 years old, his former wife worked at Dell and oversaw the issuance of refunds for travel expenses due to Dell from various airlines. Although he did not fully explain the scheme, Mr. Perrin admitted that he took advantage of the situation and resold airline tickets to other people and profited from the scheme. Mr. Perrin acknowledged he used bad judgment at that time and did not consider the consequences of his actions. Mr. Perrin further understands he remains under community supervision and that he still owes more than \$200,000 in restitution.

Mr. Perrin discussed his education and employment history at the hearing.²⁴ He testified that he graduated high school in 1989, enrolled at McClennan Community College in Waco, Texas, and eventually earned an Associate of Arts degree from American Intercontinental University, an online program based in Schaumburg, Illinois.²⁵

Mr. Perrin testified he has been continually employed since 1998, first as a sales manager for Leif Johnson Ford in Austin, Texas, from 1998 to 2005; a finance manager at Refi Car Guys in Austin, Texas, from 2005 to 2008; a licensed insurance

²⁴ See also Perrin Ex. 5.

²⁵ *Id.*

agent at National Agents Alliance in Austin, Texas, from 2008 to 2011;²⁶ an assistant store manager at AT&T in Bastrop, Texas, from 2011 to 2014; and the owner of LP Rides since 2014, a business he created that provides road trips to clients from Austin to Dallas and Houston, Texas.²⁷

Mr. Perrin testified that he currently works for Symmetry Financial Group (Symmetry), an insurance marketing organization, where his job duties include setting up appointments and providing customer service. He testified that he was originally hired by Symmetry in 2020, as an insurance agent, when he held a temporary license issued by the Department. He further contended that, with respect to his prior employment, no complaints have ever been made against him alleging unethical or dishonest behavior.

2. Testimony of Ryan Federico

Ryan Federico is an independent agency owner of Symmetry and confirmed that he hired Mr. Perrin in 2020. Mr. Federico testified that he was not aware of Mr. Perrin's criminal history until the Department proposed to deny the license at issue in this matter. Presently, Mr. Federico explained, Mr. Perrin and his current wife, "Melissa," are both employed by Symmetry. He stated that Melissa is a licensed agent and that she works directly with clients, while Mr. Perrin assists in setting up appointments and contacting carriers on behalf of Melissa.

²⁶ Mr. Perrin testified that his prior license lapsed.

²⁷ Perrin Ex. 5.

Overall, Mr. Federico testified, he is very pleased with Mr. Perrin's work and has received no customer complaints on Mr. Perrin while he has been employed at Symmetry. Mr. Federico contended that he was prepared to hire Mr. Perrin as a licensed agent and was surprised to find out about his criminal history because of his excellent work performance at Symmetry.

3. Testimony of Dr. Freddie Dixon

Dr. Freddie Dixon has been a United Methodist minister for 30 years in Austin, Texas, and is the Executive Director of Community Outreach at the University of Texas. Dr. Dixon is a founding member of a local chapter of the Austin Area Urban League and led a group to rename 19th Street to Martin Luther King, Jr. Blvd. in Austin, Texas.

He testified that he is Mr. Perrin's mentor and best friend, and that he is aware of Mr. Perrin's criminal history. Dr. Dixon acknowledged Mr. Perrin had made a mistake that will stay with him the rest of his life but asserted that mistake should not "cripple" him to the extent that he cannot continue to survive, achieve, and move on to greater heights. Dr. Dixon testified that he was proud that Mr. Perrin enrolled his son into Brown University, an Ivy League School in Providence, Rhode Island. Dr. Dixon further stated that Mr. Perrin's son has since graduated and is currently working on his master's degree at Howard University in Washington, D.C.

Dr. Dixon further testified that Mr. Perrin has "self-forgiveness," has tried to make restitution for his mistake, and has improved his life, his family, and his faith.

Dr. Dixon believes Mr. Perrin deserves consideration for a license because of the redeeming qualities that he is displaying in trying to improve himself.

4. Mr. Perrin's Letters of Recommendation and Exhibits

Dr. Dixon wrote in a letter dated December 13, 2020, that Mr. Perrin has a highly analytical mind and the ability to attend to detail without losing sight of the larger picture. Dr. Dixon added that Mr. Perrin is studious, intellectually inquisitive and relenting in his pursuit of excellence.²⁸

Mr. Federico wrote in an undated letter that Mr. Perrin is a steadfast presence in his agency and that his work ethic and willingness are infectious. Mr. Federico added that he has always known Mr. Perrin to be giving of his time, humble, and encouraging with people he comes into contact with.²⁹

Mr. Perrin provided a certificate of completion of a 12-hour Basic Cognitive Self-Change program dated December 19, 2013, from the Center for Cognitive Education in Georgetown, Texas.³⁰

Angie Lazek, Case Manager for Williamson County Adult Probation, wrote in an email dated December 21, 2021, that Mr. Perrin was \$207,692 delinquent on his restitution but was considered a low-risk client who at one time reported every 60 days to Ms. Lazak but now reports every 90 days due to his low-risk score.

²⁸ Perrin Ex. 1.

²⁹ Perrin Ex. 2.

³⁰ Perrin Ex. 3.

Ms. Lazek added that Mr. Perrin's expected date of discharge is September 22, 2023.³¹

IV. ANALYSIS

Staff contends that Mr. Perrin's criminal history shows that he lacks the honesty and trustworthiness required to hold an insurance agent license. Likewise, Staff contends that his misrepresentation in his application indicates a lack of honesty that warrants denial.

A. CRIMINAL HISTORY AS GROUNDS FOR DENIAL

There is no dispute regarding Mr. Perrin's criminal history set forth above. The traffic violations in 1995 and 2008 are misdemeanor offenses that are remote in time and were committed so long ago that the Department did not show that they were crimes directly related to the duties and responsibilities of the licensed occupation. As such, Department bases its denial of licensure based on Mr. Perrin's theft offense.

Mr. Perrin's theft offense was serious, and is given significant weight as a crime of prime importance. However, because Mr. Perrin has not yet completed the deferred adjudication for the theft offense, the Department may only consider him to have been convicted of that offense if, after considering the factors in Texas

³¹ Perrin Ex. 4

Occupations Code sections 53.022 and 53.023(a), it determines that he may pose a continued threat to public safety or that his employment as a licensed insurance agent would create an opportunity to repeat the prohibited conduct.³² The evidence reflects that Mr. Perrin has not been discharged from community supervision and that a license would offer Mr. Perrin an opportunity to engage in similar criminal activity. As explained by Mr. Wright, if licensed, Mr. Perrin would be handling funds between policy holders and carriers in the same manner that funds were handled at Dell when he committed the theft outlined above. After weighing all the factors, the ALJ concludes that the preponderance of the evidence showed that the deferred adjudication for the theft charge should be considered a conviction.

The Department has determined that theft is among those offenses so serious that they are of prime importance in determining fitness for licensure.³³ The Department considers crimes of prime importance to be directly related to the duties and responsibilities of the licensed occupation.³⁴

Turning to the factors in Code section 53.023(a), the evidence shows Mr. Perrin's offense of theft in 2008 is serious because, in addition to being a crime of moral turpitude, it involved an amount of over \$200,000 based on the court-ordered restitution. The evidence also shows that Mr. Perrin committed the theft when he was 37 years old. Hence, it cannot be discounted as a youthful

³² Tex. Occ. Code § 53.021(d)(1)(B)(i), (2).

³³ 28 Tex. Admin. Code § 1.502(e)(4)(F).

³⁴ 28 Tex. Admin. Code § 1.502(e); *see also* Tex. Occ. Code § 53.025.

indiscretion. Although 15 years have elapsed since he committed the offense, theft qualifies as crimes of prime importance when determining fitness for licensure.

Mitigating these factors are Mr. Perrin's steady work history both before and after the criminal offense, his completion of a program in basic cognitive skills, his compliance with the current terms of community supervision, and the three letters of recommendation he provided, which speak very highly of his work ethic and character—including a letter and testimony from a distinguished member of community in Dr. Dixon. Further mitigation is evidence that Mr. Perrin has supported his dependent son by enrolling him in Brown University and Howard University. However, as discussed above, Mr. Perrin's theft offense is serious, and is given significant weight as a crime of prime importance.

Mr. Perrin has the burden of proving present fitness to be licensed. While he appears to be making significant strides toward rehabilitation, the ALJ finds that insufficient time has passed to demonstrate that he is reformed. Mr. Perrin is heading in the right direction, and his continued work ethic and adoption of a law-abiding lifestyle will eventually pay off as he continues to make better decisions moving forward in his life and career. However, after considering the applicable factors outlined above, Mr. Perrin has not yet demonstrated he is fit for licensure at this time. Accordingly, the ALJ concludes that the mitigating factors do not outweigh the seriousness of the criminal offense, and Mr. Perrin has not shown his fitness for licensure.

B. MISREPRESENTATION ON LICENSE APPLICATION

Staff also contends Mr. Perrin’s application should be denied because he intentionally made a material misstatement in the license application.³⁵ Mr. Perrin answered “No” when the application asked about any history of misdemeanors or felonies. For each type of criminal offense, the questions specifically asked whether he had been convicted, had a judgment deferred, or was currently charged with committing such a crime. Because Mr. Perrin has a judgment deferred from the 2008 theft offense, his response to the question was untruthful.

Mr. Perrin’s failure to disclose that criminal offense was a material misstatement on the application, which he did not deny at the hearing. This false assertion that he made on November 10, 2020, demonstrates Mr. Perrin is not fully rehabilitated from engaging in conduct that is dishonest and deceptive, and further indicates a lack of transparency on the part of Mr. Perrin. Accordingly, the ALJ finds that the preponderance of the evidence showed that Mr. Perrin intentionally made a material misstatement in the license application, and his application should be denied.

³⁵ See Tex. Ins. Code § 4005.101(b)(2)-(3), (5).

C. RECOMMENDATION

Based on the foregoing, the ALJ concludes that Mr. Perrin's application for a general lines life, accident, health, and HMO license should be denied. In support of this recommendation, the ALJ makes the following findings of fact and conclusions of law.

V. FINDINGS OF FACT

1. On August 18, 1995, Demetrius Lavon Perrin pleaded nolo contendere to the misdemeanor offense of Driving While License Suspended in Cause No. 415586 in the 7th County Court at Law in Travis County, Texas, for an offense that occurred on May 16, 1994. Mr. Perrin received deferred adjudication for 180 days.
2. On August 18, 1995, Mr. Perrin pleaded nolo contendere to the misdemeanor offense of Failure to Maintain Financial Responsibility in Cause No. 415587 in the 7th County Court at Law in Travis County, Texas, for an offense that occurred on May 16, 1994. Mr. Perrin was ordered to pay a \$350 fine.
3. On October 1, 2008, Mr. Perrin pleaded nolo contendere to the misdemeanor offense of Obstruction of Passageway in Cause No. C-1-CR-08-401693 in the 3rd County Court at Law in Travis County, Texas, for an offense that occurred on January 18, 2008.³⁶ Mr. Perrin received a year of community supervision and was successfully discharged on October 1, 2009.
4. On September 23, 2013, Mr. Perrin pleaded guilty to the second-degree felony offense of Theft of Property (more than or equal to \$200,000 in Cause No. 12-1896-K26 in the 26th Judicial District Court in Williamson County, Texas, for an offense that occurred on March 4, 2008. The court deferred

³⁶ Staff Ex. 7.

adjudication of this offense, sentenced Mr. Perrin to 10 years' community supervision and ordered Mr. Perrin to pay \$263,662.50 restitution.

5. On September 9, 2020, Mr. Perrin was issued a temporary license by the Texas Department of Insurance (Department).
6. On November 10, 2020, Ms. Perrin filed an application for a general lines life, accident, health, and HMO license (license) with the Department.
7. Mr. Perrin answered "No" on his application to the question of whether he had ever been convicted of a felony or had deferred adjudication.
8. On February 8, 2021, the Department proposed to deny the application based on Mr. Perrin's criminal history.
9. Mr. Perrin timely appealed the Department's proposed denial, and this matter was referred to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.
10. On September 28, 2022, Department Staff issued a notice of hearing. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and either a short, plain statement of the factual matters asserted or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency.
11. On December 20, 2022, SOAH Administrative Law Judge Steve M. Rivas convened a hearing on the merits by Zoom videoconference. Attorney Latoya Merida represented Staff. Mr. Perrin appeared and was represented by attorney Jason Danowsky. The record closed on January 11, 2023, when the ALJ received the exhibits and hearing transcript.
12. Mr. Perrin's theft offense was very serious and involved more than \$200,000.
13. A license would create an opportunity for Mr. Perrin to repeat the prohibited conduct.
14. Mr. Perrin was 37 years old when he committed the theft offense.

15. Other than the criminal offenses outlined herein, Mr. Perrin has no other criminal history.
16. Mr. Perrin has been continually employed since 1998.
17. Mr. Perrin is currently employed by Symmetry and has earned the respect of his employer, Ryan Federico.
18. Mr. Perrin has also earned the respect of a distinguished member of the community in Dr. Freddie Dixon.
19. Mr. Perrin supported his dependent son.
20. As of December 21, 2021, owed \$207,692 in restitution for the theft offense.
21. Mr. Perrin's expected date of discharge from community supervision for the theft offense is September 22, 2023.

VI. CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter. Tex. Ins. Code §§ 4001.002, .105, 4005.101.
2. SOAH has authority to hear this matter and issue a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; Tex. Ins. Code § 4005.104.
3. Mr. Perrin received timely and sufficient notice of hearing. Tex. Gov't Code §§ 2001.051-.052; Tex. Ins. Code § 4005.104(b).
4. Staff had the burden of proving its grounds for denying Mr. Perrin's license application, but Mr. Perrin had the burden of proving his fitness to be licensed despite his criminal history. Tex. Ins. Code § 4005.101(b); 1 Tex. Admin. Code § 155.427; 28 Tex. Admin. Code § 1.502(h)(3).

5. The burden of proof is by a preponderance of the evidence. *Granek v. Texas St. Bd. of Med. Examin'rs*, 172 S.W.3d 761, 777 (Tex. App.–Austin 2005, no pet.).
6. The Department may deny a license application if the applicant has intentionally made a material misstatement in the license application. Tex. Ins. Code § 4005.101(b)(2).
7. The Department may deny a license application if the applicant has engaged in fraudulent or dishonest acts or practices. Tex. Ins. Code § 4005.101(b)(5).
8. The Department may deny a license application on an applicant's conviction of a felony offense. Tex. Ins. Code § 4005.101(b)(8).
9. The Department may deny a license application if the applicant has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation. Tex. Occ. Code § 53.021(a)(1).
10. The Department may consider a person to have been “convicted” of an offense for purposes of Texas Occupations Code § 53.021(a), if: (1) the person has not completed the period of supervision; and (2) after consideration of the factors described in Texas Occupations Code §§ 53.022-.023(a), the Department determines that employment of the person in the licensed occupation would create a situation in which the person has an opportunity to repeat the prohibited conduct. Tex. Occ. Code § 53.021(d).
11. The Department may consider Mr. Perrin to have been “convicted” of his criminal offense (felony offense of theft of property more than or equal to \$200,000) for purposes of Texas Occupations Code § 53.021(a). Tex. Occ. Code § 53.021(d).
12. Mr. Perrin's offense is a type that the Department considers to be of such serious nature that it is of prime importance in determining fitness for licensure. 28 Tex. Admin. Code § 1.502(e)(4)(F); see Tex. Occ. Code § 53.025.
13. In determining whether to grant or deny the application based on the applicant's criminal history, the Department will consider the factors in Texas

Occupations Code sections 53.022 and 53.023. 28 Tex. Admin. Code § 1.502(h).

14. Staff met its burden to prove that Mr. Perrin engaged in “dishonest acts or practices,” was “convicted” of an offense, and the acts and the offense were “directly related” to the duties and responsibilities of the licensed occupation. See Tex. Ins. Code § 4005.101(b)(5); Tex. Occ. Code §§ 53.021(a) & .022; 28 Tex. Admin. Code § 1.502(h)(1).
15. Mr. Perrin has not met his burden to prove that he is presently fit to perform the duties and discharge the responsibilities of the licensed occupation despite his criminal history. Tex. Occ. Code § 53.023; 28 Tex. Admin. Code § 1.502(h)(2)-(3).
16. Mr. Perrin’s license application should be denied by the Department because a preponderance of the evidence established that he is not fit for licensure at this time.

Signed March 13, 2023.

ALJ Signature:



Steve Rivas

Presiding Administrative Law Judge

2023-8127

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Status as of 3/13/2023 3:51 PM CST

Associated Case Party: Demetris Lavon Perrin

Name	BarNumber	Email	TimestampSubmitted	Status
Jason Danowsky		[REDACTED]	3/13/2023 3:49:00 PM	SENT

Associated Case Party: Texas Department of Insurance

Name	BarNumber	Email	TimestampSubmitted	Status
Whitney Fraser		Whitney.Fraser@tdi.texas.gov	3/13/2023 3:49:00 PM	SENT
Texas Department of Insurance		Enforcementgeneral@tdi.texas.gov	3/13/2023 3:49:00 PM	SENT
Latoya Merida		Latoya.Merida@tdi.texas.gov	3/13/2023 3:49:00 PM	SENT

Associated Case Party: Chief Clerk

Name	BarNumber	Email	TimestampSubmitted	Status
Chief Clerk		ChiefClerk@tdi.texas.gov	3/13/2023 3:49:00 PM	SENT