

4. The Department may deny a license if the Department determines that the applicant has engaged in fraudulent or dishonest acts or practices or has been convicted of a felony. Tex. Ins. Code § 4005.101(b)(5), (8).
5. 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).
6. The Department has determined that certain crimes are of such a serious nature that they are of prime importance in determining fitness for licensure. These crimes include any offense for which fraud, dishonesty, or deceit is an essential element. 28 Tex. Admin. Code § 1.502(e)(1).
7. The Department considers the factors listed in Texas Occupations Code §§ 53.022 and .023 in determining whether to issue a license to an applicant with a criminal history or who has engaged in fraudulent or dishonest activity, and will not issue a license unless those mitigating factors outweigh the serious nature of the criminal offense when viewed in the light of the occupation being licensed. 28 Texas Administrative Code § 1.502(f), (h).
8. Staff has the burden to prove by a preponderance of the evidence its alleged grounds to deny Mr. Huante's license application, while Mr. Huante has the burden to prove by a preponderance of the evidence that he is fit to perform the duties and discharge the responsibilities of an insurance agent despite his criminal history. *See* Tex. Ins. Code § 4005.101(b); 1 Tex. Admin. Code § 155.427; 28 Tex. Admin. Code § 1.502(f), (h).
9. Staff met its burden to prove that Mr. Huante engaged in fraudulent or dishonest acts or practices and was convicted of a felony; 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), (8); Tex. Occ. Code §§ 53.021-.023; 28 Tex. Admin. Code § 1.502(d), (f), (h).
10. Mr. Huante did not meet 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(d), (f), (h)(2)-(3).
11. Mr. Huante's license application should be denied.

SIGNED January 3, 2022.



**HEATHER HUNZIKER
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**