

No. 2024-9001

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

Date: 12/04/2024

Subject Considered:

Texas Department of Insurance

v.

Monica Ann Cardona

SOAH Docket No. 454-24-14724.C

General Remarks and Official Action Taken:

The subject of this order is Monica Ann Cardona's application for limited lines agent license. This order denies Ms. Cardona'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 the Texas Department of Insurance (TDI) deny Ms Cardona's application.

TDI adopts the administrative law judge's proposed findings of fact and conclusions of law.

Technical Error in the Proposal for Decision

The discussion of Karina Rosas' testimony on page 12 of the proposal for decision misattributes to Mr. Wright a statement by Ms. Rosas regarding Ms. Cardona's trustworthiness. The context of the sentence, as well as a review of the hearing transcript, make it clear the statement was made by Ms. Rosas. This technical error does not require a change to the administrative law judge's proposed findings of fact or conclusions of law, but it is acknowledged here to avoid confusion.

Commissioner's Order
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Findings of Fact

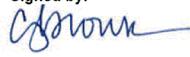
The findings of fact contained in Exhibit A are adopted and incorporated by reference into this order.

Conclusions of Law

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

Order

It is ordered that Monica Ann Cardona's application for limited lines agent license is denied.

Signed by: 
FC5D7EDDFB4F8... _____
Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:

Signed by: 
5DAC5618BBC74D4... _____
Jessica Barta, General Counsel

Signed by: 
27ADF3DA5BAF4B7... _____
Justin Beam, Chief Clerk

SOAH Docket No. 454-24-14724

Suffix: C

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**TEXAS DEPARTMENT OF INSURANCE,
PETITIONER**

v.

**MONICA ANN CARDONA,
RESPONDENT**

PROPOSAL FOR DECISION

Monica Ann Cardona¹ applied to the Texas Department of Insurance (Department) for a limited lines agent license. Department staff (Staff) seeks to deny licensure because of Ms. Cardona's criminal history. After considering the evidence and applicable law, the Administrative Law Judge (ALJ) recommends the Department deny Ms. Cardona's license application at this time.

¹ Documentation in the record also indicates that Ms. Cardona has been known by the names Monica Ann Martinez and Monica DeLara.

I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY

Notice and jurisdiction are not disputed and are addressed solely in the Findings of Fact and Conclusions of Law.

On June 26, 2024, ALJ Susan Rodriguez with the State Office of Administrative Hearings (SOAH) convened a hearing by videoconference. Attorney Jeannie Ricketts represented Staff, and Ms. Cardona represented herself. The hearing concluded that same day. The record originally closed on July 16, 2024, with the filing of the written transcript. The record was re-opened to allow the parties time to file a complete set of the admitted exhibits, and finally closed on August 15, 2024.

II. APPLICABLE LAW

The Department is charged with regulating the business of insurance in the State of Texas.² A person may not directly or indirectly perform acts that constitute the business of insurance unless they hold an insurance license or other authorization from the Department.³ The Department considers it very important that license holders and applicants are honest, trustworthy, and reliable.⁴ The Department may deny an application on several grounds, including if the applicant has been convicted

² Tex. Ins. Code § 31.002(1).

³ Tex. Ins. Code §§ 101.102(a), 4001.101, .051 (listing acts constituting acting as an insurance agent).

⁴ 28 Tex. Admin. Code § 1.502(c). Section 1.502 was amended to be effective September 26, 2023. This Proposal for Decision cites to the version of the rule that was in effect at the time Ms. Cardona submitted her application on September 7, 2023.

of a felony, or has been convicted of an offense that is directly related to the duties and responsibilities of the licensed occupation.⁵

For applicants with criminal convictions, the Department considers the factors specified in Texas Occupations Code sections 53.022 and 53.023 in determining whether to grant a license or authorization to the applicant.⁶ Under its rules, the Department shall not issue a license or authorization if it finds these factors outweigh the serious nature of the criminal offense when viewed in light of the occupation being licensed.⁷

Texas Occupations Code section 53.022 sets forth factors the Department must consider when determining whether a criminal conviction directly relates to the duties and 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 Tex. Ins. Code § 4005.101(b)(8); Tex. Occ. Code § 53.021(a).

⁶ 28 Tex. Admin. Code § 1.502(h).

⁷ 28 Tex. Admin. Code § 1.502(f).

- 5) any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.⁸

The “directly relates” analysis must also take into account certain “guideline” crimes the Department “considers to be of such serious nature that they are of prime importance in determining fitness for licensure.”⁹ These crimes—that the Department has determined to be of prime importance and directly related to the occupations it licenses—include, among others, “any offense for which fraud, dishonesty, or deceit is an essential element.”¹⁰

If the Department determines that an offense directly relates to the duties and responsibilities of the licensed occupation, it must then consider the following factors prescribed by Texas Occupations Code section 53.023, which bear on 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;
- 5) evidence of the person’s rehabilitation or rehabilitative effort while incarcerated or after release;

⁸ Tex. Occ. Code § 53.022; *see also* 28 Tex. Admin. Code § 1.502(h)(1).

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

¹⁰ 28 Tex. Admin. Code § 1.502(e)(1).

- 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.¹¹

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.¹² An applicant must also 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.¹³

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

¹¹ Tex. Occ. Code § 53.023; *see also* 28 Tex. Admin. Code § 1.502(h)(2).

¹² Tex. Occ. Code § 53.023(b); 28 Tex. Admin. Code § 1.502(h)(3).

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

¹⁴ 1 Tex. Admin. Code § 155.427.

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

III. EVIDENCE

Staff offered four exhibits, all of which were admitted without objection,¹⁶ and the testimony of Lewis Wright, the Department’s Administrative Review Liaison to the Enforcement Division. Ms. Cardona had one exhibit admitted.¹⁷ She also presented testimony from Karina Rosas and testified on her own behalf.

A. BACKGROUND

Ms. Cardona filed an application for a limited lines agent license with the Department on or about September 7, 2023.¹⁸ On October 3, 2023, the Department proposed to deny her application because of her criminal history.¹⁹ Ms. Cardona requested a hearing on October 20, 2023.²⁰

Ms. Cardona’s criminal history is as follows:

- On August 29, 2016, in cause number 13588-CR in the 63rd Judicial District Court in Val Verde County, Texas, Ms. Cardona pleaded guilty and was convicted of the state jail felony of possession of a controlled substance, methamphetamine, less than one gram.²¹ She was sentenced to serve twenty-four months in the Texas Department of Criminal Justice (TDCJ) state jail division, but the sentence was suspended and

¹⁶ Staff Exhibits 1-4. Staff made an unopposed trial amendment to Staff Exhibit 1 at page 9, paragraph no. 20, to reflect that Ms. Cardona was awarded as a “top agent” in February 2024, rather than in February 2023.

¹⁷ Ms. Cardona’s Exhibit 1 consists of twelve pages, including written statements from Ms. Cardona and letters in support of her application.

¹⁸ Staff Ex. 2 at 73-80.

¹⁹ Staff Ex. 2 at 31.

²⁰ Staff Ex. 2 at 28.

²¹ Staff Ex. 2 at 38.

Ms. Cardona was placed on community supervision for twenty-four months.²² The offense occurred on October 26, 2015.²³

- On July 13, 2017, in cause number 2:17-CR-00517-AM, in the United States District Court for the Western District of Texas, Del Rio Division (Court), Ms. Cardona pleaded guilty to one felony count of conspiracy to transport illegal aliens.²⁴ According to the plea agreement, Ms. Cardona knew or recklessly disregarded that the passengers she was transporting were present in the United States illegally, that it was against the law to transport illegal aliens, and that their transport was in furtherance of their illegal entry.²⁵ She committed the acts knowingly, intentionally, and voluntarily, with specific intent to violate the law.²⁶ The Court found Ms. Cardona guilty and sentenced her to serve nine months in the United States Bureau of Prisons, followed by three years of supervised release.²⁷ She was given credit for time served, and began her period of supervised release on or about January 15, 2018.²⁸ She was ordered to pay more than \$1,000 in special assessments and fines, and participate in a substance treatment program including drug testing during supervised release.²⁹ The offense occurred on or about April 30, 2017.³⁰
- On November 6, 2020, Ms. Cardona’s probation officer petitioned the Court to revoke Ms. Cardona’s community supervision because she

²² Staff Ex. 2 at 38-39.

²³ Staff Ex. 2 at 38. As a result of this conviction, the charges in cause numbers 13553-CR and 13635-CR, which arose from the same set of facts, were dismissed. Staff Exs. 2 at 39; 3 at 85-86.

²⁴ Staff Ex. 3 at 103-113. As a result of Ms. Cardona’s guilty plea, the charge of resisting arrest in cause number 10095-CR, which stemmed from the same course of conduct, was dismissed. Staff Ex. 2 at 47.

²⁵ Staff Ex. 3 at 111-12.

²⁶ Staff Ex. 3 at 112.

²⁷ Staff Ex. 3 at 114-16. As a result of the adjudication and sentencing in this case, cause number 13588-CR was dismissed in January 2018. Staff Ex. 3 at 87.

²⁸ Staff Ex. 3 at 115, 120.

²⁹ Staff Ex. 3 at 119.

³⁰ Staff Ex. 3 at 111.

violated the terms of her supervised release.³¹ Ms. Cardona admitted using methamphetamine, and reported that she had quit her job because of unexcused absences and moved without permission.³²

- On or about May 7, 2021, the Court revoked Ms. Cardona’s supervised release and sentenced her to an additional eight months in prison.³³ She was released from confinement on or about July 14, 2021.³⁴

Ms. Cardona has worked for Amtex Auto Insurance in Eagle Pass, Texas, since June 2023, and is identified in email correspondence as an “office agent.”³⁵ She was designated as a “top 3 agent” by her District Manager in February 2024 after making sales of over \$1,700.

B. MR. WRIGHT’S TESTIMONY

Mr. Wright has worked in the insurance industry for thirty-seven years and currently serves as the Administrative Review Liaison to the Department’s Enforcement Division. He is the primary contact between the Agent and Adjuster Licensing Office and the Legal Division regarding applications that may be of concern or reports of misconduct involving current license holders.

Mr. Wright described that a limited lines insurance agent represents the insurance company during the sale of insurance products and throughout the life of

³¹ Staff Ex. 3 at 120-21.

³² Staff Ex. 3 at 120-21.

³³ Staff Ex. 2 at 58-59. Ms. Cardona was given credit for time served beginning on December 2, 2020, forward.

³⁴ Staff Ex. 3 at 123.

³⁵ Staff Ex. 3 at 122.

the insurance product, explains coverage, gathers information from consumers, submits applications for insurance, collects money from prospective applicants, and provides refunds when appropriate. Insurance agents handle their customers' sensitive, personal information; handle money; and act in a fiduciary role, and these duties present opportunities for agents to commit fraud and embezzlement. Insurance products are complicated and even a simple insurance transaction can be complex, creating room for confusion and fraud. Therefore, he said, if an agent is untrustworthy, it can cause serious emotional and financial harm to consumers.

Ms. Cardona filed her application for a limited lines agent license on September 7, 2023. Ms. Cardona's application was referred for administrative review, Mr. Wright said, because of information she provided on the application and information the Department gathered during the background check. As part of the review, the Department asked Ms. Cardona to provide documentation relating to her criminal history. She complied by providing some court documents, personal statements, and letters of reference. After review, Staff proposed to deny Ms. Cardona's application based on her criminal history.

According to Mr. Wright, the Department evaluates the nature and severity of each criminal offense when an applicant is referred for administrative review. Mr. Wright testified that the terms "fraudulent" and "dishonest" indicate that there were elements of deception or deceit. Therefore, although a crime may not be "fraud," it could still be dishonest and the basis for denial. Anytime a law is broken on purpose or with intent, he said, there is an element of deceit in that conduct. Accordingly, the Department looks at the nature and severity of the conduct and if it

could be described as dishonest or fraudulent. He said that Ms. Cardona's convictions were for felony level crimes, and the Department considered both to be crimes of prime importance. The Department considered the offense of conspiring to transport illegal aliens to be severe in nature, of prime importance, and directly related to the occupation of an insurance agent because it involved elements of dishonesty or deceit.³⁶ The crime of possession, he said, is of prime importance because of the "nature and severity of the offense."

As mitigating evidence, Ms. Cardona submitted her resume which, Mr. Wright said, shows that she is an industrious worker. Mr. Wright testified that Ms. Cardona has a history of steady employment, held several different jobs prior to her criminal offenses, and worked more than one job at a time. She holds a high school diploma, is in recovery, and has expanded her community through her church. Mr. Wright explained that the Department considered these to be positive attributes when reviewing Ms. Cardona's application.

Ms. Cardona also provided documentation showing that Amtex's District Manager, Karina Rosas, recognized Ms. Cardona as one of the "top 3 agents in the district" and that Ms. Cardona had generated new business in the amount of \$1,748.71.³⁷ In addition, Ms. Cardona's name appears in the signature block under

³⁶ Mr. Wright testified that the Department also considered the misdemeanor charge of resisting arrest in cause number 10095-CR to be severe in nature. That charge, however, was dismissed because the "course of conduct [was] prosecuted" when Ms. Cardona was prosecuted for conspiracy to transport illegal aliens. Staff Ex. 2 at 47. Therefore, the ALJ does not consider the charge of resisting arrest in the analysis of this case.

³⁷ Staff Ex. 3 at 125.

the heading “Office Agent.”³⁸ Mr. Wright testified that these documents raise concerns that Ms. Cardona is operating as an insurance agent without proper licensure. Mr. Wright testified that these documents and the testimony Ms. Cardona and Ms. Rosas gave show that Ms. Cardona is currently performing the work of an insurance agent for Amtex even though she is not licensed.

Mr. Wright said Ms. Cardona’s letters of support were generally positive and supportive. Several people from Ms. Cardona’s church wrote letters, but most have known Ms. Cardona for three years or less and the letters do not demonstrate that the writers were aware of the extent of her criminal history. Overall, he said, Ms. Cardona’s efforts to rehabilitate herself are commendable but do not outweigh the nature and seriousness of her criminal history, which is why the Department proposed to deny her application.

C. MS. CARDONA’S EVIDENCE

1. Ms. Rosas’s Testimony

Ms. Rosas is a licensed insurance agent and a District Manager for Amtex Insurance. Ms. Cardona has worked for Ms. Rosas since June 2023 in Amtex’s office in Eagle Pass, Texas. Ms. Rosas is aware that Ms. Cardona is not licensed by the Department. According to Ms. Rosas, Ms. Cardona speaks to Amtex customers, handles insurance applications for customers, and sells insurance. She was one of the top three sellers in February 2024, selling fifteen policies at more than \$1,748.

³⁸ Staff Ex. 3 at 124.

Mr. Wright testified that she considers Ms. Cardona to be trustworthy and reliable, and she has never known Ms. Cardona to be deceitful or dishonest at work.

2. Ms. Cardona's Testimony

Ms. Cardona reiterated that she does not have any criminal history involving fraud or theft. Ms. Cardona said that her criminal history was not the result of mistakes but because of bad choices she made. Her mother died in 2004 and after that she began using drugs and it got out of hand. She was an addict at the time of her criminal offenses but is in recovery now. Ms. Cardona expressed her willingness to undergo drug counseling and said she is just asking for a chance.

Regarding the specific charge of possession of a controlled substance, she explained that she was unaware of the drugs. She was not arrested for that incident until several months later and said that she was only arrested because she rented the room and was responsible for the narcotics that the police found. Ms. Cardona pleaded guilty and the other charges for theft of a firearm and resisting arrest were then dismissed.

Ms. Cardona testified that she is an office agent at Amtex and her job duties include talking to customers on the phone, quoting them on policies, and explaining the insurance products. Her employer offers liability and full coverage car insurance policies but does not offer homeowners insurance.

3. Ms. Cardona's Documentary Evidence

Ms. Cardona explained in her written statement that throughout her life she has suffered from mental, physical, and emotional abuse.³⁹ She also struggled with addiction but is now an active, involved member of her church.⁴⁰ She has a large support system that includes people who are aware of her past mistakes, and said that she no longer associates with anyone who can put her freedom or sobriety at risk.⁴¹ She has rebuilt relationships with her family members and helped raise her nieces and nephews.⁴² Ms. Cardona discussed her health struggles and expressed that she wants to live the rest of her life as a productive member of society.⁴³

Ms. Cardona submitted several letters from fellow church members and her sister.⁴⁴ The writers unanimously attested to the positive changes they have witnessed in Ms. Cardona, her concern for and willingness to help others, and her consistent involvement in the church. One writer recalled that when they first met, she could see that Ms. Cardona's life was in turmoil.⁴⁵ After joining the church, however, the writer saw changes in Ms. Cardona, who now faithfully attends and participates in church activities.⁴⁶ The same writer said, “[Ms. Cardona's] desire to

³⁹ Resp. Ex. 1 at 8.

⁴⁰ Resp. Ex. 1 at 8.

⁴¹ Resp. Ex. 1 at 8.

⁴² Resp. Ex. 1 at 8.

⁴³ Resp. Ex. 8 at 9.

⁴⁴ Resp. Ex. 1 at 1-5, 10.

⁴⁵ Resp. Ex. 1 at 3.

⁴⁶ Resp. Ex. 1 at 3.

do the right [thing] is foremost in her life.”⁴⁷ Ms. Cardona’s sister said that Ms. Cardona now surrounds herself with good people and has reconnected with family, and that her career in insurance allows her to help others and succeed in moving forward in her life.⁴⁸

IV. ANALYSIS

The Department may deny a license application if the applicant has been convicted of a felony or has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation.⁴⁹ Here, there is no dispute regarding Ms. Cardona’s criminal history. Her two convictions were both felonies and the Department gave them significant weight when reviewing her application. Pursuant to Texas Insurance Code section 4005.101(b)(8), both crimes give the Department the authority to deny Ms. Cardona’s license application. First, however, the Department must establish that the crimes are directly related to the licensed occupation, which requires consideration of the factors set out in Texas Occupations Code section 53.022.

The ALJ agrees that Ms. Cardona’s conviction for conspiracy to transport illegal aliens is directly related to the duties and responsibilities of the licensed occupation. It was a serious, felony-level crime during which Ms. Cardona willingly transported people she knew were in the country illegally, in furtherance of their

⁴⁷ Resp. Ex. 1 at 3.

⁴⁸ Resp. Ex. 1 at 1.

⁴⁹ Tex. Ins. Code § 4005.105(b)(8); Tex. Occ. Code § 53.021(a)(1).

illegal entry, and despite knowing her actions were in violation of the law. By its nature, this offense involved elements of dishonesty and deceit, making it a crime of prime importance and implicating Ms. Cardona's ability to carry out the duties and responsibilities of an insurance agent.

Regarding Ms. Cardona's conviction for felony possession of methamphetamine, Mr. Wright testified that the Department considered this to be a crime of prime importance because of the "nature and severity of the offense." The nature and severity of an offense, however, is only one of the factors set forth in Texas Occupations Code section 53.022. The record otherwise lacks evidence of how or why the Department determined possession is a crime of prime importance or how it is directly related to the occupation of an insurance agent. The Department did not establish that possession of methamphetamine relates to the purpose of requiring a license to be an insurance agent, or how a limited lines agent license would give Ms. Cardona an opportunity to commit the same type of offense. Moreover, the Department's rules seem to exclude mere possession from its list of crimes of prime importance because the list includes the more specific crime of possession with intent to manufacture or deliver.⁵⁰ In the absence of evidence showing how possession relates to Ms. Cardona's ability to perform the duties and discharge the responsibilities of an insurance agent, the ALJ finds that this offense is not directly related to the duties and responsibilities of an insurance agent. Accordingly, the remaining analysis relates only to whether Ms. Cardona should be licensed despite her federal conviction.

⁵⁰ 28 Tex. Admin. Code § 1.502(e)(4)(G).

Turning to the factors in Texas Occupations Code section 53.023(a), the evidence shows that Ms. Cardona’s offense of conspiracy to transport illegal aliens—although not necessarily extensive—was a serious felony. The plea agreement reflects that Ms. Cardona knew or recklessly disregarded that the four individuals she was transporting were in the country illegally and that it was against the law to transport illegal aliens. She also pleaded guilty to committing the offense knowingly, intentionally, and voluntarily.

The record does not establish Ms. Cardona’s exact age at the time of her offense, but she attended high school from August 1996 to October 1998,⁵¹ so her crime—committed in 2017—cannot be discounted as a youthful indiscretion. And though it has been more than seven years since her most recent criminal activity, Ms. Cardona was sent back to prison in late 2020 after she violated the terms of her supervised release engaging in drug use, quitting her job, and moving without permission.

On the other hand, Ms. Cardona has a solid work history both before and after her criminal activity. She has been steadily employed by Amtex since June 2023 and was recognized as a top performer. Her supervisor finds her to be honest, trustworthy, and reliable. In addition, Ms. Cardona is recovering from substance abuse issues, and while the record lacks evidence of formal rehabilitative efforts during or after her incarceration, she is actively involved in her church where she has a significant support system.

⁵¹ Staff Ex. 2 at 36.

The letters of recommendation Ms. Cardona provided speak very highly of her interest in helping other people, her positive attitude, her dedication to her church and community, and her desire to move forward and better herself. The writers collectively praised the changes Ms. Cardona has made in her life, but aside from her sister, none of them have known Ms. Cardona for more than three years.

Ms. Cardona has the burden of proving that she is presently fit to be licensed despite her criminal history. She has made positive changes in her life and was candid about her past struggles and behavior. Her written statements and testimony show that she is sincerely dedicated to turning her life around. Nonetheless, Ms. Cardona's crime was a serious felony, and it is concerning that by all accounts she is currently engaged in the business of insurance even though she is not licensed as an insurance agent, a fact that casts doubt on her honesty and trustworthiness.

On balance, the evidence of Ms. Cardona's current fitness for licensure is outweighed by the serious nature of her criminal history and its implications for her ability to carry out the duties and responsibilities of a limited lines insurance agent. Accordingly, the ALJ concludes that Ms. Cardona's application for a limited lines agent license should be denied at this time. In support of this recommendation, the ALJ makes the following findings of fact and conclusions of law.

V. FINDINGS OF FACT

1. On September 7, 2023, Monica Ann Cardona applied for a limited lines agent license with the Texas Department of Insurance (Department).
2. On October 3, 2023, the Department proposed to deny the application based on Ms. Cardona's criminal history.

3. Ms. Cardona timely requested a hearing to challenge the proposed denial.
4. On March 26, 2024, the Department referred this matter to the State Office of Administrative Hearings (SOAH) for a hearing.
5. On April 2, 2024, the Administrative Law Judge (ALJ) issued Order No. 1, Scheduling Hearing on the Merits, which set the hearing for June 26, 2024, and provided Zoom log-in information.
6. On April 4, 2024, staff (Staff) of the Department issued a notice of hearing which attached and incorporated by reference its petition in this case.
7. Together, the Notice of Hearing and SOAH Order No. 1 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.
8. On June 26, 2024, SOAH ALJ Susan Rodriguez convened a hearing by videoconference. Attorney Jeannie Ricketts represented Staff, and Ms. Cardona represented herself. The record originally closed on July 16, 2024, with the filing of the written transcript. The record was re-opened to allow the parties time to file a complete set of the admitted exhibits, and finally closed on August 15, 2024.
9. On August 29, 2016, in cause number 13588-CR in the 63rd Judicial District Court in Val Verde County, Texas, Ms. Cardona pleaded guilty and was convicted of the state jail felony of possession of a controlled substance, methamphetamine, less than one gram.
10. On July 13, 2017, in cause number 2:17-CR-00517-AM, in the United States District Court for the Western District of Texas, Del Rio Division (Court), Ms. Cardona pleaded guilty to one count of conspiracy to transport illegal aliens for an offense that occurred on or about April 30, 2017.

11. On January 22, 2018, the Court found Ms. Cardona guilty and sentenced her to serve nine months in the United States Bureau of Prisons, followed by three years of supervised release.
12. On November 6, 2020, Ms. Cardona's probation officer petitioned the Court to revoke Ms. Cardona's community supervision because she used methamphetamine, quit her job, and moved without permission, in violation of the terms and conditions of her release.
13. The Court revoked Ms. Cardona's supervised release and sentenced her to an additional eight months in prison.
14. Ms. Cardona was released from confinement on or about July 14, 2021.
15. The crime of possession of methamphetamine is not directly related to the duties and responsibilities of the licensed occupation.
16. The crime of conspiracy to transport illegal aliens is a serious crime that the Department considers to be of prime importance in determining licensure because it involved elements of deceit and dishonesty.
17. The crime of conspiracy to transport illegal aliens is directly related to the duties and responsibilities of the licensed occupation.
18. Ms. Cardona's offense occurred in 2017, but she violated the terms of her supervised release in late 2020, resulting in her return to prison until July 2021.
19. Ms. Cardona's offense was serious in nature. She willingly transported people she knew were in the country illegally, in furtherance of their illegal entry, despite knowing her actions were in violation of the law.
20. Ms. Cardona was an adult at the time of the offense, and her conduct cannot be excused as youthful indiscretion.
21. Ms. Cardona holds a high school diploma and has a history of steady, gainful employment.
22. Ms. Cardona is in recovery from drug use, and she became an active, involved member of her church.

23. Ms. Cardona provided letters of support in which several people with personal knowledge of her indicated that she has made positive changes in her life and is actively involved in her church. Most of the letter writers have known Ms. Cardona for three years or less, and it is not clear that the writers were aware of her criminal history.
24. Ms. Cardona currently works as an office agent for Amtex Insurance. Her job duties include talking to customers on the phone, quoting them on policies and explaining the insurance products. Ms. Cardona was recognized as a top performer for February 2024 after making sales of more than \$1,700.
25. At Amtex, Ms. Cardona is engaged in the business of insurance even though she does not hold a license or other authorization from the Department.
26. Ms. Cardona failed to demonstrate that she is currently fit for licensure by the Department.

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. Ms. Cardona 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 Ms. Cardona's application, and Ms. Cardona had the burden of proving her fitness to be licensed despite her criminal history. 1 Tex. Admin. Code § 155.427; 28 Tex. Admin. Code § 1.502(f), (h).
5. The burden of proof is by a preponderance of the evidence. *Granek v. Tex. St. Bd. of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).
6. The Department may deny licensure to an applicant who has been convicted of a felony. Tex. Ins. Code § 4005.101(b)(8).

7. The Department may deny licensure to an applicant who 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).
8. 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).
9. The Department considers the factors listed in Texas Occupations Code sections 53.022 and 53.023 in determining whether to issue a license to an applicant with a criminal history, 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 Tex. Admin. Code § 1.502(f), (h).
10. Ms. Cardona has been convicted of a felony that directly relates to the duties and responsibilities of the licensed occupation. Tex. Ins. Code § 4005.101(b)(8); Tex. Occ. Code §§ 53.021-.023; 28 Tex. Admin. Code § 1.502(d), (f).
11. Ms. Cardona did not meet her burden of proving that she is presently fit to perform the duties and discharge the responsibilities of a limited lines agent. Tex. Occ. Code § 53.023; 28 Tex. Admin. Code § 1.502(d), (f), (h)(2)-(3).
12. The Department should deny Ms. Cardona's application for a limited lines agent license.

SIGNED SEPTEMBER 27, 2024



Susan Rodriguez

Presiding Administrative Law Judge