

No. 2025-9364

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

**Date: 06/23/2025**

**Subject Considered:**

Texas Department of Insurance

v.

Horacio Garza

SOAH Docket No. 454-25-08639.C

**General Remarks and Official Action Taken:**

The subject of this order is Horacio Garza's application for a personal lines property and casualty agent license. This order denies Mr. Garza'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 Mr. Garza's application. A copy of the proposal for decision is attached as Exhibit A.

**Findings of Fact**

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

**Conclusions of Law**

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

COMMISSIONER'S ORDER  
TDI V. HORACIO GARZA  
SOAH DOCKET NO. 454-25-08639.C  
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**Order**

It is ordered that Horacio Garza's application for a personal lines property and casualty agent license is denied.

Signed by:  
  
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Cassie Brown  
Commissioner of Insurance

Recommended and reviewed by:

Signed by:  
  
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Jessica Barta, General Counsel

Signed by:  
  
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Justin Beam, Chief Clerk

**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**TEXAS DEPARTMENT OF INSURANCE,  
PETITIONER**

**v.**

**HORACIO GARZA,  
RESPONDENT**

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**PROPOSAL FOR DECISION**

Horacio Garza applied to the Texas Department of Insurance (Department) for a personal lines property and casualty agent license. Department staff (Staff) seeks to deny licensure because of Mr. Garza's criminal history. After considering the evidence and the applicable law, the Administrative Law Judge (ALJ) recommends Mr. Garza's license application be denied.

**I. PROCEDURAL HISTORY, NOTICE, AND JURISDICTION**

On February 15, 2024, Mr. Garza applied for a personal lines property and casualty agent license with the Department,<sup>1</sup> and on March 26, 2024, the Department proposed to deny the application based on Mr. Garza’s criminal history.<sup>2</sup> Mr. Garza requested a hearing to challenge the proposed denial of licensure.<sup>3</sup> On December 18, 2024, the Department referred this matter to the State Office of Administrative Hearings (SOAH) for a hearing.

On February 12, 2025, SOAH ALJ Amy Wright convened a hearing by Zoom videoconference.<sup>4</sup> Attorney Erik Huhn represented Staff, and Mr. Garza represented himself. The record closed on March 4, 2025, on the filing of the admitted exhibits and hearing transcript. Notice and jurisdiction were undisputed and are thus discussed only in the Findings of Fact and Conclusions of Law.

**II. APPLICABLE LAW**

The Department recognizes that the special nature of the relationship between insurance agents and the public and the complexity and variety of insurance products necessitate that the public trust in and rely on insurance agents. As a result, the Department considers it very important that license holders and applicants are honest, trustworthy, and reliable. Therefore, the Department evaluates an

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<sup>1</sup> Staff Ex. 2 at 143-47.

<sup>2</sup> Staff Ex. 2 at 43.

<sup>3</sup> Staff Ex. 2 at 40, 44.

<sup>4</sup> Subsequent to the hearing, ALJ Megan Johnson was assigned to this case, reviewed the record and evidence in this matter, and drafted the Proposal for Decision.

applicant’s criminal history and other conduct to determine whether the applicant possesses those qualities.<sup>5</sup> The Department may deny an application on several grounds, including if the applicant has been convicted of a felony<sup>6</sup> or has been convicted of an offence directly related to the duties and responsibilities of the licensed occupation.<sup>7</sup>

In determining whether to deny an application based on a person’s criminal history, the Department considers the factors specified in Texas Occupations Code sections 53.022 and 53.023. Section 53.022 sets forth factors which address 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

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<sup>5</sup> 28 Tex. Admin. Code § 1.502(a), (c).

<sup>6</sup> Tex. Ins. Code § 4005.101(b)(8) (providing that “[t]he department may deny a license application . . . [if] the applicant . . . has been convicted of a felony”).

<sup>7</sup> Tex. Occ. Code § 53.021(a)(1); *see also* 28 Tex. Admin. Code § 1.502(f) (authorizing the Department to refuse to issue a license if it determines the applicant has committed any sexual offense as described by Penal Code Chapters 21 or 22 or any offense described by Code of Criminal Procedure Article 42A.054).

5. any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.<sup>8</sup>

The Department has identified certain crimes it considers to be of such a serious nature that they are of prime importance in determining fitness for licensure.<sup>9</sup> These crimes include, among others, offenses of Indecency with a Child and Sexual Assault under Penal Code sections 21.11 and 22.011, respectively.<sup>10</sup> Crimes the Department has determined to be of prime importance are directly related to the occupations it licenses.<sup>11</sup>

After determining a criminal offense directly relates to the occupation, the Department considers the additional factors set forth in Occupations Code section 53.023(a):

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;

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<sup>8</sup> Tex. Occ. Code § 53.022.

<sup>9</sup> 28 Tex. Admin. Code § 1.502(f).

<sup>10</sup> 28 Tex. Admin. Code § 1.502(d)(2), (3); Tex. Code of Crim. Proc. Art. 42A.054(a)(7), (8); Tex. Code Crim. Pro. Ann. Art. 62.001.

<sup>11</sup> 28 Tex. Admin. Code § 1.502(f); *see also* Tex. Occ. Code § 53.025.

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.<sup>12</sup>

It is the applicant's responsibility, to the extent possible, to obtain and provide to the Department the applicant's evidence of fitness.<sup>13</sup>

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 sections 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.<sup>14</sup> If 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.<sup>15</sup>

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<sup>12</sup> See also 28 Tex. Admin. Code § 1.502(e).

<sup>13</sup> Tex. Occ. Code § 53.023(b); 28 Tex. Admin. Code § 1.502(f).

<sup>14</sup> Tex. Occ. Code § 53.021(d).

<sup>15</sup> See Tex. Occ. Code §§ 53.022, .023(a) (emphasis added).

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.<sup>16</sup> Staff has the burden of proving its grounds for denying Mr. Garza’s application, while Mr. Garza has the burden to prove his fitness to be licensed despite his criminal history.<sup>17</sup> The standard of proof is by a preponderance of the evidence.<sup>18</sup>

### **III. EVIDENCE**

Staff offered one exhibit, which were admitted, and presented testimony from Lewis Wright.<sup>19</sup> Mr. Garza testified on his own behalf and did not offer any exhibits.

#### **A. LEWIS WRIGHT’S TESTIMONY**

Mr. Lewis is the Administrative Review Liaison to the Agent and Adjuster Licensing Office and has been with the Department for 17 years. He testified that his chief duty is to be a primary contact between areas of the Department relating to reports of misconduct by license holders or applicants that may raise a concern about their licensure. He further explained that it is the Department’s duty to protect Texas consumers from individuals who have “displayed misconduct or have the potential to display misconduct within the industry.”<sup>20</sup>

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<sup>16</sup> 28 Tex. Admin. Code § 1.502(f).

<sup>17</sup> 1 Tex. Admin. Code § 155.427.

<sup>18</sup> *Granek v. Tex. St. Bd. of Med. Exam’rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).

<sup>19</sup> Staff Ex. 2.

<sup>20</sup> Transcript (Tr.) at 11.

Mr. Lewis explained that upon receipt of an application for licensure, the Department reviews the application and, if there is a concern with the application's completeness, associated licensing fee, or the applicant's background check, it is referred to the Administrative Review Team for analysis. The team then contacts the applicant identifying their concern and eliciting more information and where, as here, a criminal history is involved, the team requests a personal statement, letters of recommendation, and supporting documentation to show rehabilitative efforts.

Mr. Lewis confirmed that Mr. Garza applied for a personal lines property casualty agent license on February 15, 2024. If licensed, Mr. Garza would represent an insurance company in the insurance market in the sale process, which entails interacting with consumers, offering protection of personal assets, and the exchange of personal information to analyze risk exposure and offer insurance products. On his application, Mr. Garza disclosed that he had a criminal history.<sup>21</sup> Specifically, he pleaded guilty to two counts of Indecency with a Child, Sexual Contact, a second-degree felony, under Chapter 21, Subsection 11, Subsection D of the Texas Penal Code.<sup>22</sup> On November 6, 2023, the court sentenced Mr. Garza to deferred adjudication, one day in jail, and ten years of community supervision.<sup>23</sup> Mr. Garza also pleaded guilty to two counts of Sexual Assault of a Child, a second-degree felony, and was sentenced to deferred adjudication, ten years of community supervision, and

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<sup>21</sup> Staff Ex. 2 at 45.

<sup>22</sup> Staff Ex. 2 at 45.

<sup>23</sup> Staff Ex. 2 at 45-47.

one day in jail, on November 6, 2023.<sup>24</sup> Mr. Lewis testified that because of these offenses, the Texas Sex Offender Registry Program was engaged, which requires Mr. Garza to be registered as a sex offender in Texas for his lifetime.<sup>25</sup>

Mr. Garza is expected to be discharged from community supervision around November 6, 2033. He was on community supervision when he applied for his license with the Department. Mr. Lewis stated that the Department understands these are Mr. Garza's only offenses and that he was 23 years old at the time of the offenses.

Mr. Lewis testified that the significance of these offenses as they relate to fitness for licensure is that they are of prime importance—these offenses are second-degree felonies as well as violent in nature and involve indecency with a child. He stated these crimes are considered of prime importance to the Department in licensing decisions.

In response to the Department's inquiry, Mr. Lewis testified, Mr. Garza provided documents, including his resume and work history; three letters of recommendation; and a letter from his probation officer.<sup>26</sup> According to Mr. Lewis, the Department has concerns about his most recent listing of employment with Progressive because it indicates his duties include those for which a license would be

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<sup>24</sup> Staff Ex. 2 at 48-50.

<sup>25</sup> Staff Ex. 2 at 65.

<sup>26</sup> Staff Ex. 2 at 56-62.

needed.<sup>27</sup> Moreover, Mr. Lewis said that the personal statement included a deflection of responsibility related to the events that transpired, although it did mention Mr. Garza regretted the incident. Mr. Lewis testified that, after considering all the factors, the Department proposed to deny Mr. Garza's application.

**B. MR. GARZA'S TESTIMONY**

Mr. Garza testified about the three letters of recommendation he provided to the Department.<sup>28</sup> The first is from Gilbert Galvan, Mr. Garza's friend and coworker whom he has known for years. The second is from Alejandro Rendon, who is also a friend he has known since seventh grade. The third letter of recommendation is from Steven Trejo, someone Mr. Garza would help "every once in a while;" he has known Mr. Garza all his life and knows "what type of person" he is.<sup>29</sup> The letters all praise Mr. Garza's work ethic and personal character. They indicate that the authors know of Mr. Garza's criminal history and believe that the offenses were isolated events of the past.<sup>30</sup>

Mr. Garza also testified about his resume and work history. He explained that he is currently working for Capa, selling materials such as concrete, aggregates, and asphalt. Mr. Garza worked as a Detention Officer (2019-2020) and a Child Protective

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<sup>27</sup> Staff Ex. 2 at 62. Mr. Garza testified that he no longer works for Progressive. He also explained that never worked as an agent for Progressive; he was training and shadowing, waiting for his license.

<sup>28</sup> See Staff Ex. 2 at 58-60.

<sup>29</sup> Tr. at 29.

<sup>30</sup> Staff Ex. 2 at 58-60.

Services Family Based Safety Services Specialist (2020-2021) and interned with a police department in 2016-2017.<sup>31</sup>

#### **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.<sup>32</sup> Here, it is uncontroverted that Mr. Garza recently committed serious crimes for which he was placed on deferred adjudication community supervision until September 2033, namely, two second-degree felonies of Indecency with a Child, Sexual Contact under Penal Code section 21.11 and Sexual Assault of a Child, under Penal Code section 22.011. These offenses are directly related to the occupation of a personal lines property and casualty agent and are considered crimes of prime importance by the Department, pursuant to 28 Texas Administrative Code section 1.502.<sup>33</sup> However, because Mr. Garza has not completed his term of deferred adjudication for the two felony offenses, the Department may only consider him to have been convicted of the offenses if, after considering the factors listed in Texas 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 personal lines property and casualty agent would create an opportunity to repeat the prohibited conduct.<sup>34</sup>

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<sup>31</sup> Staff Ex. 2 at 62-63.

<sup>32</sup> Tex. Ins. Code § 4005.101(b)(8); Tex. Occ. Code § 53.021(a)(1).

<sup>33</sup> 28 Tex. Admin. Code § 1.502(d)(2), (3).

<sup>34</sup> Tex. Occ. Code § 53.021(d).

The Department has already taken the Texas Occupations Code section 53.022 factors into account in determining that offenses involving indecency with a child and sexual assault are directly related to the occupation of a personal lines property and casualty agent.<sup>35</sup> Turning to section 53.023 factors, the evidence establishes that:

1. Mr. Garza's two felony offenses are the extent of his criminal activity. He was 23 years old when he committed these offenses, therefore, his offenses cannot be considered youthful indiscretions. These offenses are serious and recent, committed within the past four years.
2. There is no evidence of any other criminal activity.
3. Mr. Garza has a history of gainful and professional employment before, during, and after his criminal activity. His employment until January 2024 was not in the insurance industry, and his work with Progressive was limited in time. Consequently, working in the insurance industry would be a relatively new career for Mr. Garza. Of note, however, is the fact that Mr. Garza worked as a Detention Officer (2019-2020) and a Child Protective Services Family Based Safety Services Specialist (2020-2021) and interned with a police department in 2016-2017. This employment history weighs strongly against Mr. Garza being licensed, as his offenses are especially concerning considering his experience with law enforcement and Child Protective Services. A person with training and experience in law enforcement and Child Protective Services has a heightened knowledge and awareness of the law as it relates to children and minors and consequences for violating it.
4. There is no evidence of Mr. Garza's efforts at rehabilitation while incarcerated or following release. He has been and is, however, being fully compliant with his terms of community supervision since November 2023.

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<sup>35</sup> 28 Tex. Admin. Code § 1.502(d)(2), (3); Tex. Code of Crim. Proc. Art. 42A.054(a)(7), (8); Tex. Code Crim. Pro. Ann. Art. 62.001.

5. Mr. Garza presented three letters of support from individuals with whom he previously worked or has known socially. They praise his work ethic and personal character. The letters indicate that the authors know of Mr. Garza's criminal history and believe that the offenses were isolated events of the past.

The nature of Mr. Garza's felony offenses and the other evidence support a finding that the Department may consider his deferred adjudication orders for the two offenses to be convictions for licensing purposes. The ALJ is not assured that Mr. Garza will not offend again. Given the fact that the offense was committed recently, and after working for Child Protective Services and law enforcement, the ALJ concludes that, if licensed, Mr. Garza would have the ability to interact with consumers, access their personal information, and potentially offend again. Thus, the Department is authorized to deny his application. The evidence offered by Mr. Garza failed to outweigh the serious nature of his felony offenses and the fact that he is still on community supervision. Therefore, the record does not establish he is currently fit to perform the duties and discharge the responsibilities of a licensed personal lines property and casualty agent despite his offenses. Accordingly, the ALJ recommends that Mr. Garza's application for a licensed personal lines property and casualty 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. Horacio Garza applied for a personal lines property and casualty agent license with the Texas Department of Insurance (Department) on or about February 15, 2024.
2. On his application, Mr. Garza disclosed that he had a criminal history.

3. On March 26, 2024, the Department proposed to deny the application based on Mr. Garza's criminal history.
4. Mr. Garza requested a hearing to challenge the denial.
5. On December 18, 2024, the Department referred this matter to the State Office of Administrative Hearings (SOAH) for a hearing.
6. On or about November 6, 2023, Mr. Garza pleaded guilty to two second-degree felonies: two counts of Indecency with Child Sexual Contact and two counts of Sexual Assault Child. The dates of the offenses are October 22-23, 2021. At the time, Mr. Garza was 23 years old. For these offenses, he was sentenced to one day in jail and ten years deferred adjudication community supervision to run concurrently.
7. Mr. Garza is currently scheduled to remain on community supervision until November 6, 2033.
8. Mr. Garza's offenses were not youthful indiscretions.
9. Mr. Garza's criminal history is serious, including two felony offenses, namely, Indecency with Child Sexual Contact and Sexual Assault Child, of such a serious nature that the Department considers them to be of prime importance in determining whether to issue a license.
10. Mr. Garza's two felony offenses are recent, committed within the past four years.
11. Mr. Garza has a history of gainful and professional employment before, during, and after his criminal activity. Much of his past employment is not in the insurance industry.
12. No evidence was provided of Mr. Garza's rehabilitation or rehabilitative effort.
13. There is no evidence of any other criminal activity for Mr. Garza.
14. Mr. Garza is in compliance with his terms of community supervision.

15. Mr. Garza presented three letters of support from individuals with whom he previously worked or has known socially. They praise his work ethic and personal character, despite knowing about his criminal history.
16. Mr. Garza may pose a continued threat to public safety and Mr. Garza's employment in the licensed occupation would create a situation in which he has an opportunity to repeat the criminal conduct.
17. Mr. Garza is not currently fit for licensure by the Department.
18. The Department's Amended Original Petition, filed February 4, 2025, together with the Notice of Hearing and the SOAH Order No.1 Setting Hearing on the Merits, filed January 2, 2025, 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 a short, plain statement of the factual matters asserted.
19. On February 12, 2025, SOAH Administrative Law Judge Amy Wright convened a hearing by Zoom videoconference. Attorney Erik Huhn represented the Department, and Mr. Garza represented himself. The record closed on March 4, 2025, on the filing of the admitted exhibits and hearing transcript.

## **VI. CONCLUSIONS OF LAW**

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

preponderance of the evidence. 1 Tex. Admin. Code § 155.427; Tex. Occ. Code § 53.023; *Granek v. Tex. St. Bd. of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).

5. The Department may deny licensure to an applicant who committed a felony offense. Tex. Ins. Code § 4005.101(b)(8).
6. The Department may deny licensure to an applicant who committed an offense that directly relates to the duties and responsibilities of the licensed occupation. Tex. Occ. Code § 53.021(a)(1).
7. The Department may consider a person to have been convicted of an offense for purposes of Texas Occupations Code section 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 sections 53.022-.023(a), the Department determines that the person may pose a continued threat to public safety. Tex. Occ. Code § 53.021(d).
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 offenses of Indecency with a Child and Sexual Assault under Penal Code sections 21.11 and 22.011, respectively. 28 Tex. Admin. Code § 1.502(d)(2), (3); Tex. Code of Crim. Proc. Art. 42A.054(a)(7), (8); Tex. Code Crim. Pro. Ann. art. 62.001.
9. The Department may consider Mr. Garza to have been convicted of the offenses of second-degree Felony Indecency with a Child, Sexual Contact and second-degree Felony Sexual Assault for purposes of Texas Occupations Code section 53.021(a). Tex. Occ. Code § 53.021(d).
10. Mr. Garza's offenses (described in Conclusion of Law 9) are the type that the Department considers to be of such a serious nature that it is of prime importance in determining fitness for licensure. 28 Tex. Admin. Code § 1.502(d)(2), (3).
11. The Department has determined that the crimes it considers to be of prime importance are directly related to the occupations it licenses. 28 Tex. Admin. Code § 1.502(f).

12. The Department may deny Respondent's license applications because his felony offenses are directly related to the duties and responsibilities of the licensed occupation. Tex. Occ. Code § 53.021(a)(1); 28 Tex. Admin. Code § 1.502(f).
13. The Department will consider the factors listed in Texas Occupations Code sections 53.022 and .023 in determining whether to issue a license to an applicant despite a criminal offense and will not issue a license unless the 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(e), (f).
14. The mitigating evidence does not outweigh the seriousness of Mr. Garza's criminal offenses, and he has not shown his fitness to perform the duties and discharge the responsibilities of the licensed occupation. Tex. Occ. Code § 53.023; 28 Tex. Admin. Code § 1.502(f).
15. Mr. Garza 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.
16. The Department should deny Mr. Garza's application for licensure at this time. Tex. Occ. Code § 53.023; 28 Tex. Admin. Code § 1.502(f).

**Signed April 25, 2025.**

ALJ Signature:



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Megan Johnson

Presiding Administrative Law Judge