

No. 2026-9740

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

Date: 01/14/2026

Subject Considered:

Texas Department of Insurance

v.

Kim Benson

SOAH Docket No. 454-25-22437.C

General Remarks and Official Action Taken:

The subject of this order is Kim Benson's application for an all-lines insurance adjuster license. This order denies Ms. Benson'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 Ms. Benson's application be denied. 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.

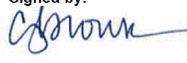
Conclusions of Law

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

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Order

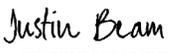
It is ordered that Kim Benson's application for an all-lines insurance adjuster license is denied.

Signed by:

FC5D7EDDFFB4F8... _____
Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:

Signed by:

5DAC5618BBC74D4... _____
Jessica Barta, General Counsel

Signed by:

27ADF3DA5BAF4B7... _____
Justin Beam, Chief Clerk

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**TEXAS DEPARTMENT OF INSURANCE,
PETITIONER**

v.

**KIM BENSON,
RESPONDENT**

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**TEXAS DEPARTMENT OF INSURANCE,
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**KIM BENSON,
RESPONDENT**

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Department of Insurance (Department) seeks to deny, based on her criminal history and her failure to disclose the same, the application of Kim Benson¹ (Respondent) for an all-lines insurance adjuster license.

¹ The evidence demonstrated Ms. Benson has used numerous aliases, and many of the admitted court documents reference these alternative names. To avoid confusion, the ALJ has referred to Respondent as Ms. Benson throughout the proposal for decision (PFD). Staff Exhibit 2 at TDI 131.

After considering the evidence and applicable law, the Administrative Law Judge (ALJ) recommends the Department deny Ms. Benson's application for licensure.²

I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY

Notice and jurisdiction were not disputed and are addressed in the Findings of Fact and Conclusions of Law without further discussion. The hearing convened via Zoom videoconference on September 2, 2025, by ALJ Whitney L. Stuebner of the State Office of Administrative Hearings (SOAH). Staff attorney Jeannie Ricketts appeared on behalf of the Department. Ms. Benson appeared on her own behalf. The record closed on September 16, 2025, with the filing of the admitted exhibits and transcript.

II. APPLICABLE LAW

The Texas Insurance Code authorizes the Department to regulate the business of insurance in this state.³ In order to act as an insurance adjuster, a person

² In the Original Petition (Petition), Staff cited federal law requiring that a person who has been convicted of a criminal felony involving dishonesty or breach of trust may only engage or participate in the business of insurance if the person obtains the written consent of any insurance regulatory agency official authorized to regulate the insurer. 18 U.S.C. § 1033(e)(1)(A), (2). Staff Ex. 1 at TDI 013. While Staff contends in the Petition that Ms. Benson has not obtained such permission, Staff did not specifically request that the ALJ recommend the denial of such consent in either the Petition or during the hearing. Transcript (Tr.) at 11:11-20; Staff Ex. 1 at TDI 013. To the extent Staff intended to request denial of the required written consent, which is unclear, notice as to the provision was insufficient. Accordingly, the ALJ will not further address this matter in the PFD.

³ Tex. Ins. Code § 31.002. The PFD cites the substantive licensure law in effect when Ms. Benson applied for a license in July 2024, the applicable provisions of the Texas Penal Code at the time she committed the criminal offenses at issue, and the current procedural law.

must hold a license issued by the Department.⁴ The Department considers it “very important” that license holders and applicants are honest, trustworthy, and reliable.⁵ The Department may deny a license application or discipline a license holder on several grounds, including if the applicant or licensee has, in part, (1) intentionally made a material misstatement in the license application; (2) obtained or attempted to obtain a license by fraud or misrepresentation; (3) engaged in fraudulent or dishonest acts or practices; or (4) has been convicted of a felony.⁶

The Department may also deny an application for licensure or revoke, suspend, or refuse to renew a license if the applicant or licensee has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation.⁷ In determining whether to grant a license to an applicant with criminal convictions, the Department considers the factors listed in Texas Occupations Code sections 53.022 and .023.⁸ Texas Occupations Code section 53.022 assists the Department in determining whether a criminal conviction directly relates to the duties and responsibilities of a licensed occupation. These factors include:

⁴ Tex. Ins. Code §§ 101.102, 101.101, 4101.051. Pursuant to Texas Insurance Code section 4101.001(a)(1), an adjuster investigates or adjusts losses on behalf of an insurer; supervises the handling of claims; or investigates, adjusts, supervises the handling of, or settles workers’ compensation claims. Tex. Ins. Code § 4101.001(a)(1)(A)-(C).

⁵ 28 Tex. Admin. Code § 1.502(c).

⁶ Tex. Ins. Code § 4005.101(b)(2), (3), (5), (8).

⁷ Tex. Occ. Code § 53.021(a)(1); 28 Tex. Admin. Code § 1.502(d)(1).

⁸ 28 Tex. Admin. Code § 1.502(e).

1. the nature and seriousness of the crime;
2. the relationship of the crime to the purpose 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 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.⁹

The issue of whether an offense directly relates to the duties and responsibilities of the licensed occupation also requires consideration of the “guideline crimes,” which are offenses the Department considers to be of such a serious nature that they are of “prime importance in determining fitness for licensure.”¹⁰ These offenses include, in pertinent part:¹¹

- any offense for which fraud, dishonesty, or deceit is an element;
- any criminal violation of the Texas Insurance Code or an offense pertaining to the financial industry or business of insurance

⁹ Tex. Occ. Code § 53.022.

¹⁰ 28 Tex. Admin. Code § 1.502(f); *see also* Tex. Occ. Code § 53.025.

¹¹ 28 Tex. Admin. Code § 1.502(f)(1), (2)(A), (3), (4)(F), (K).

under any state law, including, in part, a fraud offense as described by chapter 32 of the Texas Penal Code;¹²

- any felony involving moral turpitude or breach of fiduciary duty;¹³
- any offense with the essential elements of an assaultive offense, as described by chapter 22 of the Texas Penal Code; and
- any offense with the essential elements of a theft offense as described by chapter 31 of the Texas Penal Code.

If the Department determines that a criminal conviction is directly related to the duties and responsibilities of the licensed occupation, it must then consider the following factors in determining whether to take action on the license:

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;

¹² Chapter 32 of the Texas Penal Code provides elements for fraud offenses, including Forgery (Texas Penal Code section 32.21), Credit Card/Debit Card Abuse (Credit Card Abuse) (Texas Penal Code section 32.31), False Statement to Obtain Property or Credit (False Statement to Obtain Credit) (Texas Penal Code section 32.32); and Fraudulent Use of Identifying Information (Texas Penal Code section 32.51). The elements of these offenses are detailed below.

¹³ Crimes of moral turpitude generally involve dishonesty, fraud, deceit, misrepresentation, or deliberate violence. *In re Humphreys*, 880 S.W.2d 402, 407-08 (Tex. 1994); *Brown v. Tex. Dep't of Ins.*, 34 S.W.3d 683, 690 (Tex. App.—Austin 2000, no pet.).

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.¹⁴

Staff has the burden of producing evidence to demonstrate Ms. Benson's application should be denied due to her criminal history, while Ms. Benson has the burden to demonstrate her fitness for licensure despite her criminal history, fraudulent or dishonest practices, and material misstatement on her license application.¹⁵ The standard of proof is by a preponderance of the evidence.¹⁶

III. EVIDENCE

At the hearing, Staff had four exhibits admitted into evidence and presented the testimony of Lewis Weldon Wright IV, an Administrative Review Liaison for the Department.¹⁷ The ALJ took official notice of current provisions of the Texas Insurance Code, Texas Occupations Code, and Texas Administrative Code. Ms. Benson did not offer documentary evidence, though documents she provided to the Department during the review process, such as letters of recommendation, were

¹⁴ Tex. Occ. Code § 53.023(a)(1)-(7). Pursuant to 28 Texas Administrative Code section 1.502(g), the Department will also consider any specific criteria the legislature has set out for any license or authorization in considering whether to grant, deny, suspend, or revoke such license or authorization.

¹⁵ 1 Tex. Admin. Code § 155.427; Tex. Occ. Code § 53.023(b).

¹⁶ *Granek v. Tex. State Bd. of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).

¹⁷ Staff's exhibits include: Staff Ex. 1 (Jurisdictional Documents); Staff Ex. 2 (Certified Copy of Agent and Adjuster License Application File); Staff Ex. 3 (Respondent's Criminal History Records); Staff Ex. 4 (Statutes and Rules).

admitted as part of the Department's exhibits; Ms. Benson testified on her own behalf.

A. BACKGROUND

1. Application

On July 2, 2024, Ms. Benson applied for an all-lines insurance adjuster license.¹⁸ Insurance adjusters represent insurance companies during the loss-settlement process, which is also known as the claims process.¹⁹ Specifically, adjusters ascertain existing coverage, appraise damage, recommend whether the claim should be denied or paid, and determine the amount of the claim.²⁰ Adjusters work with consumers of all types of insurance products and often have the authority to draft from the insurance carrier's accounts in order to pay claims.²¹

The application asked Ms. Benson whether she had been convicted of a misdemeanor or felony, had a judgment withheld or deferred, or was currently

¹⁸ Staff Ex. 2 at 259.

¹⁹ Tr. (Wright Dir.) at 30:12-23.

²⁰ Tr. (Wright Dir.) at 30:12-23.

²¹ Tr. (Wright Dir.) at 30:12-31:4.

charged with committing a misdemeanor or felony (criminal history questions).²² Ms. Benson answered “no” to each of the criminal history questions.²³

On September 24, 2024, the Department proposed to deny Ms. Benson’s application.²⁴ Ms. Benson requested a hearing to appeal the denial.²⁵

2. Respondent’s Criminal History

Staff presented evidence that Ms. Benson has the following criminal history:²⁶

- On September 14, 1989, in Case Number (No.) 933546, Ms. Benson pleaded guilty to the misdemeanor offense of Theft of a Check²⁷ in County Criminal Court at Law No. 6 in Harris County, Texas, for an

²² Staff Ex. 2 at TDI 261. The application advised that when responding to the criminal history questions, applicants may exclude certain misdemeanor convictions or pending misdemeanor charges, including, driving without a license, driving with a suspended or revoked license, and juvenile adjudications.

²³ Staff Ex. 2 at TDI 261.

²⁴ Staff Ex. 2 at TDI 028.

²⁵ Staff Ex. 2 at TDI 211.

²⁶ The Petition provided information regarding several additional criminal offenses, which the ALJ has not addressed in the PFD because the evidence was insufficient or because the offenses cannot serve as a basis for denial of Ms. Benson’s application. The evidence was insufficient regarding the following alleged convictions: Fraudulent Use and Possession of Identification in Dallas County, Texas (June 14, 2007); felony Forgery of a Financial Instrument in Travis County, Texas (August 27, 2007); Resisting Arrest Search or Transport (Resisting) in Travis County, Texas (August 29, 2007). Staff did not provide the judgments for these convictions and instead provided only printouts of court websites and/or or references to these convictions in documents pertaining to other convictions. Staff Ex. 2 at TDI 070-082, 100, 103, 109. Further, evidence supporting the Resisting conviction was not readily apparent from the admitted evidence. The Petition also referenced several dismissals, including Unauthorized Use of a Motor Vehicle (April 23, 1990), Bail Jumping and Failure to Appear (May 1, 2009), and Criminal Mischief (August 1, 2019); these are not convictions and cannot serve as the basis for denial of Ms. Benson’s application. Additionally, Staff included Ms. Benson’s conviction for Driving While License Invalid (October 6, 2016) in the Petition; however, as discussed above, the application for licensure specifically excludes the offense of Driving Without a License. Staff Ex. 2 at 261.

²⁷ A person commits the offense of Theft if he unlawfully appropriates property with intent to deprive the owner of the property. Tex. Penal Code § 31.03(a).

offense occurring on October 31, 1986. Ms. Benson was sentenced to 15 days' confinement.²⁸

- On December 16, 1991, in Case No. 914932, Ms. Benson pleaded nolo contendere to the misdemeanor offense of Theft in County Criminal Court at Law No. 7 in Harris County, Texas, for an offense occurring on December 2, 1991. Ms. Benson was sentenced to four days' confinement and a \$500 fine.²⁹
- On May 19, 1992, in Case No. 9011896, Ms. Benson pleaded nolo contendere to the misdemeanor offense of Theft in County Court at Law No. 11 in Harris County, Texas, for an offense occurring on March 25, 1990. Ms. Benson was sentenced to four days' confinement, to run concurrently, and a \$500 fine.³⁰
- On May 19, 1992, in Case No. 9011897, Ms. Benson pleaded nolo contendere to the misdemeanor offense of Evading Arrest or Detention (Evading Arrest)³¹ in County Court at Law No. 11, in Harris County, Texas, for an offense occurring on March 25, 1990.³² Ms. Benson was sentenced to four days' confinement, to run concurrently, and a \$500 fine.

²⁸ Staff Ex. 2 at TDI 061-063.

²⁹ Staff Ex. 2 at TDI 124-126.

³⁰ Staff Ex. 2 at TDI 067-069. The ALJ infers the sentence in Case No. 9011896 was concurrent with the sentence in Case No. 9011897, which had the same date of offense and sentencing date.

³¹ Pursuant to Texas Penal Code section 38.04(a) a person commits the offense of Evading Arrest/Detention (Evading Arrest) if he intentionally flees from a person he knows is a peace officer attempting to arrest him or detain him for the purposes of questioning or investigation of possible criminal activity.

³² Staff Ex. 2 at TDI 195-197.

- On January 21, 1993, in Case No. 652473, Ms. Benson pleaded guilty to Possession of a Counterfeit Driver's License³³ in the 248th District Court of Harris County, Texas, for an offense occurring on December 21, 1992. Ms. Benson was sentenced to 90 days' confinement.³⁴ The judgment indicated that Ms. Benson was guilty of a third-degree felony, however, Ms. Benson was sentenced in accordance with a conviction for a Class A misdemeanor.³⁵
- On February 3, 1993, in Case No. 9260790, Ms. Benson pleaded guilty to the misdemeanor offense of False Statement to Obtain Property or Credit (False Statement to Obtain Credit)³⁶ in County Criminal Court at Law No. 3 in Harris County, Texas, for an offense occurring on December 21, 1992. Ms. Benson was sentenced to 90 days' confinement.³⁷

³³ The judgment did not provide a specific citation to the criminal offense for which Ms. Benson was convicted in this case, however, the ALJ infers the offense was included in Article 6687b section 44A(a) of *Vernon's Annotated Revised Civil Statutes of the State of Texas*, which has been repealed. A copy of the applicable statutory provision was not provided by Staff and was not readily available.

³⁴ Staff Ex. 2 at TDI 182-184.

³⁵ Staff Ex. 2 at TDI 182.

³⁶ Pursuant to Texas Penal Code section 32.32(b) a person commits the offense of False Statement to Obtain Credit if he intentionally or knowingly makes a materially false or misleading written statement to obtain property or credit for himself or another. For purposes of this offense, "credit" includes, in part, a line of credit or a credit card. Tex. Penal Code § 32.32(a)(5), (6).

³⁷ Staff Ex. 2 at TDI 127-129.

- On August 1, 1995, in Case No. 9424804, Ms. Benson pleaded guilty to Credit/Debit Card Abuse (Credit Card Abuse),³⁸ a Class A misdemeanor, in the 248th District Court of Harris County, Texas, for an offense dated October 19, 1994. Ms. Benson was sentenced to 15 days' confinement, to be served on weekends.³⁹
- On June 1, 1998, in Case No. 76690801010, Ms. Benson pleaded guilty to the Class A misdemeanor of Assault,⁴⁰ in the 177th District Court of Harris County, Texas, for an offense dated October 26, 1997.⁴¹ Ms. Benson was sentenced to one year' confinement. The evidence demonstrated Ms. Benson caused bodily injury to a peace officer by dragging him with her vehicle.⁴²

³⁸ Pursuant to Texas Penal Code section 32.31(b), a person commits the offense of Credit Card Abuse if (1) with intent to obtain a benefit fraudulently, he presents or uses a credit card or debit card with knowledge that: (A) the card has not been issued to him and he does not have the effective consent of the cardholder or (B) the card has expired or has been revoked or cancelled; (2) with intent to obtain a benefit, he uses a fictitious credit card or debit card; (3) he receives a benefit that he knows has been obtained in violation of this section; (4) he steals a credit card or debit card or, with knowledge that it has been stolen, receives a credit card or debit card with intent to use it, to sell it, or to transfer it to another person other than the issuer or the cardholder; (5) he buys a credit card or debit card from a person who he knows is not the issuer; (6) not being the issuer, he sells a credit card or debit card; (7) he uses or induces the cardholder to use the cardholder's credit card to obtain property or service for the actor's benefit for which the cardholder is financially unable to pay; (8) not being the cardholder, and without consent of the cardholder, he signs or writes his name or the name of another on a credit card or debit card with intent to use it; (9) he possesses two or more incomplete credit cards or debit cards that have not been issued to him with intent to complete them without the effective consent of the issuer; (10) being authorized by an issuer to furnish goods or services on presentation of a credit card, he, with intent to defraud the issuer or cardholder, furnishes goods or services on presentation of a credit card obtained or retained in violation of this section or credit card that is forged, expired, or revoked; or (11) being authorized by an issuer to furnish goods or services on presentation of a credit card, he, with intent to defraud the issuer or a cardholder, fails to furnish goods or services that he represents in writing to the issuer that he has furnished.

³⁹ Staff Ex. 2 at TDI 163-65.

⁴⁰ Pursuant to Texas Penal Code section 22.01(a), a person commits the offense of Assault if the person, in part, intentionally, knowingly, or recklessly causes bodily injury to another.

⁴¹ Staff Ex. 2 at TDI 175-179.

⁴² Staff Ex. 2 at 175. Court documentation demonstrated the offense was reduced from Assault – Public Servant pursuant to a plea agreement.

- On June 1, 1998, Ms. Benson pleaded guilty in Case No. 76690901010, to the State Jail Felony⁴³ (SJF) offense of Credit Card Abuse,⁴⁴ in the 177th District Court in Harris County, Texas, for an offense occurring on October 26, 1997.⁴⁵ Ms. Benson was sentenced to one year' confinement.
- On July 23, 1999, Ms. Benson pleaded nolo contendere to the SJF offense of Forgery,⁴⁶ in Case No. 31372, in the 268th District Court in Fort Bend County, Texas, for an offense occurring on January 9, 1999.⁴⁷ Ms. Benson was sentenced to two years' confinement, but the court suspended the sentence and placed Ms. Benson on four years of probation; she was further assessed a fine of \$500. On September 10, 2007, the court revoked Ms. Benson's probation and sentenced her to 180 days' confinement.⁴⁸ According to the underlying police report, Ms. Benson attempted to purchase clothing using a check and a fake driver's license at a retail establishment.⁴⁹
- On March 21, 2003, Ms. Benson pleaded guilty in Case No. 1157472, to the offense of Failure to Identify Oneself to a Police Officer (Failure to ID),⁵⁰ a Class B misdemeanor, in County Criminal Court at Law No. 5 in Harris County, Texas, for an offense occurring February 7, 2003.

⁴³ Pursuant to Texas Penal Code section 12.04(a), there are five classifications of felonies in Texas, the least serious being a State Jail Felony (SJF).

⁴⁴ The version of Texas Penal Code section 32.31 in effect at the time of this offense is the same as that stated for Ms. Benson's 1995 conviction provided above.

⁴⁵ Staff Ex. 2 at TDI 168-170.

⁴⁶ Pursuant to Texas Penal Code section 32.21(b), a person commits the offense of Forgery if he forges a writing with intent to defraud or harm another.

⁴⁷ Staff Ex. 2 at TDI 044-057.

⁴⁸ Staff Ex. 2 at TDI 029-057. It is unclear why Ms. Benson's probation in this case was revoked four years after it should have expired.

⁴⁹ Staff Ex. 2 at TDI 033-038.

⁵⁰ Pursuant to Texas Penal Code section 38.02, a person commits an offense if he intentionally refuses to give his name, address, or date of birth to a peace officer who has lawfully arrested the person and requested the information.

Ms. Benson was sentenced to two days' confinement, with credit for two days served, and assessed a \$400 fine.⁵¹

- On September 8, 2014, Ms. Benson pleaded guilty in Case No. 117672001010, to the SJF offense of False Statement to Obtain Credit,⁵² in the 338th District Court, in Harris County, Texas, for an offense occurring from July 22-July 29, 2008. Ms. Benson was sentenced to five days' confinement. The evidence demonstrated, Ms. Benson used the victim's personal information in a credit application submitted to Home Depot.⁵³
- On June 10, 2019, Ms. Benson pleaded guilty in Case No. 157567601010, to the SJF offense of Fraudulent Use of Identifying Information - Less than Five Items (Fraudulent Use of Identifying Information),⁵⁴ in the 174th District Court, in Harris County, Texas, for an offense occurring on December 10, 2017. Ms. Benson was sentenced to six months' confinement, with credit for two days served.⁵⁵ Ms. Benson attempted to use a check in the amount of \$283.58 to make a purchase, using a checkbook belonging to an individual who did not know Ms. Benson and had not authorized her to use the check.⁵⁶
- On November 30, 2021, Ms. Benson pleaded guilty in Case No. 2019R-0107 to the third-degree felony offense of Tampering

⁵¹ Staff Ex. 2 at TDI 058-060.

⁵² The statutory language in effect at the time that Ms. Benson committed the 2008 offense of False Statement to Obtain Credit is substantively similar to that which was in effect when she committed her 1992 offense, with the addition that under the 2008 version, property or credit includes a mortgage loan. Further, while the 1992 version of this provision included a statement made to obtain credit for the person "or another," the 2008 version does not include the "or another" language. Tex. Penal Code § 32.32(b).

⁵³ Staff Ex. 2 at TDI 089-093.

⁵⁴ Pursuant to Texas Penal Code section 32.51, a person commits the offense of Fraudulent Use or Possession of Identifying Information if, in part, a person, with the intent to harm or defraud another, obtains, possesses, transfers or uses an item of identifying information of another person without the other person's consent.

⁵⁵ Staff Ex. 2 at TDI 121-123.

⁵⁶ Staff Ex. 2 at TDI 109.

with Evidence with Intent to Impair (Tampering with Evidence)⁵⁷ in the 155th District Court in Austin County, Texas, for an offense occurring on June 29, 2019. Ms. Benson was sentenced to 10 years' confinement, which the court suspended and placed Ms. Benson on community supervision for 10 years. Ms. Benson was also ordered to pay restitution in the amount of \$2,000.⁵⁸

- On November 30, 2021, Ms. Benson pleaded guilty, in Case No. 2019R-108 to the third-degree felony offense of Evading Arrest⁵⁹ in the 155th District Court, in Austin County, Texas, for an offense occurring on June 29, 2019. Ms. Benson was sentenced to 10 years' confinement, which the court suspended and placed Ms. Benson on community supervision for 10 years.⁶⁰ The court granted Ms. Benson's Motion for Early Dismissal and Discharge from Probation on September 18, 2024.⁶¹

B. TESTIMONY OF LEWIS WELDON WRIGHT IV

Mr. Wright has worked for the Department for 18 years and currently serves as the Administrative Review Liaison for the Agent and Adjuster Licensing Office to the Enforcement Division. In this role, he is the primary contact between the Agent

⁵⁷ Pursuant to Texas Penal Code section 37.09(a)(1), a person commits an offense if, knowing that an investigation or official proceeding is pending, he alters, destroys, or conceals any record, document, or thing with intent to impair its verity, legibility, or availability as evidence in the investigation or official proceeding.

⁵⁸ Staff Ex. 2 at TDI 086-088. This sentence was concurrent to Ms. Benson's sentence in Case No. 2019R-0108 (Evading Arrest/Detention with a Vehicle). Staff Ex. 2 at TDI 216.

⁵⁹ The elements of the offense of Evading Arrest under Texas Penal Code section 38.04(a) in 2019 were substantially similar to the elements when Ms. Benson committed her first Evading Arrest offense in 1992 provided above, with the addition that a person has committed the offense if he flees from a "federal special investigator."

⁶⁰ Staff Ex. 2 at TDI 216-218. This sentence was concurrent to Ms. Benson's sentence in Case No. 2019R-0107 (Tampering with Evidence).

⁶¹ Staff Ex. 2 at TDI 255.

and Adjustor Licensing Office and the Enforcement Division regarding applications of concern.

According to Mr. Wright, the Department receives approximately 200,000 applications per year, and about 10% of those applications are referred to the Administrative Review team (AR). Upon receiving a referral, AR contacts the applicant, requests additional court documentation, and analyzes the applicant's criminal history. At the conclusion of the review, AR provides a recommendation to management regarding whether the applicant should be licensed.

When an individual is licensed by the Department, this demonstrates that the Department has determined that the licensee will conduct themselves in an honest, transparent, and forthright manner. The nomenclature and funding mechanisms of the insurance industry are complex, and licensees have access to information and financial instruments that are not publicly available. Accordingly, Mr. Wright opined there is great potential for misconduct, which may not be detected until actual harm has occurred. For this reason, it is important for the Department to screen applicants to protect insurance consumers.

Ms. Benson has approximately 30 years of criminal history. Her most recent offenses occurred in 2019 and included Evading Arrest and Tampering with Evidence, which are third-degree felonies.⁶² Ms. Benson pleaded guilty to these

⁶² Staff Ex. 2 at TDI 233-238.

offenses and was placed on probation for ten years.⁶³ At the time Ms. Benson applied for licensure, she was still on probation; however, she was granted an early discharge from probation on September 18, 2024.⁶⁴ Mr. Wright contended that Ms. Benson's recent release from probation did not afford the Department much time to ascertain whether she will comply with the law absent supervision. According to Mr. Wright, Ms. Benson's responses to the application's criminal history questions were concerning because her background check revealed numerous offenses.

Mr. Wright opined that the rehabilitative evidence provided by Ms. Benson did not alleviate the Department's concerns regarding her criminal history. Ms. Benson committed criminal offenses from her mid-twenties until her early fifties. Her last offense occurred six years ago. Ms. Benson has been employed as a certified nursing assistant (CNA) since 2019.⁶⁵ The Department viewed Ms. Benson's work history favorably, however, Mr. Wright observed she did not provide information regarding her employment history prior to 2019.⁶⁶ In her personal statement, Ms. Benson acknowledged her prior felony convictions and explained that she is trying to better herself.⁶⁷ While Ms. Benson's admission regarding her past and contention that she is trying to make positive life changes is

⁶³ Staff Ex. 2 at TDI 233-238.

⁶⁴ Staff Ex. 2 at TDI 255.

⁶⁵ Staff Ex. 2 at TDI 272.

⁶⁶ Staff Ex. 2 at TDI 278.

⁶⁷ Staff Ex. 2 at TDI 278. As discussed further below, at some point during the application process, Ms. Benson provided additional information regarding the motivation for her prior criminal activity. Staff Ex. 2 at 223.

viewed favorably by the Department, Mr. Wright contended this does not mitigate concerns regarding the nature and severity of her criminal history.

Ms. Benson provided several letters of recommendation from personal acquaintances and colleagues.⁶⁸ While some of the letters demonstrated an understanding of Ms. Benson's criminal history, the letters failed to show the authors had full knowledge of her history and the related concerns.

C. TESTIMONY OF MS. BENSON

Ms. Benson did not contest her criminal history. She stated that her 2021 convictions were a turning point. During the incident, officers pursued her, deployed road spikes that punctured her tires, removed her from the vehicle, and threw her to the ground. She described the experience as traumatic and stated that it made her determined never to be involved in a similar situation again.

After the 2019 incident, Ms. Benson changed her life.⁶⁹ She completed her ten-year sentence of probation in four years.⁷⁰ Ms. Benson also obtained her CNA

⁶⁸ Staff Ex. 2 at TDI 240, 242-245, 247-254.

⁶⁹ In an undated communication to the Department, Ms. Benson acknowledged her criminal history was a result of interacting with the wrong crowd, smoking marijuana, and stealing to survive. She stated that she became addicted to drugs and forged checks and obtained credit using the names of other individuals to afford her lifestyle. In 2020, her granddaughter was born, and her daughter in-law was diagnosed with cancer. Ms. Benson stated she wanted to be present for her grandchildren; as a result, she got sober and refrained from criminal activity or drugs. Staff Ex. 2 at 223.

⁷⁰ Ms. Benson explained that to complete probation, she paid fees, attended meetings, completed community service, and completed a drug evaluation and drug testing. She also paid approximately \$7,000 in fines.

license in 2019 and subsequently obtained a hydro-therapist and doula licenses.⁷¹ Ms. Benson worked as a caregiver for a client, whose daughter is an attorney.⁷² In that capacity, Ms. Benson had access to her client's bills, personal information, bank accounts, and credit cards. According to Ms. Benson, she cared for her client without incident until her death. Ms. Benson founded a nonprofit organization called the Queen Mother Organization that assists women who have been incarcerated by helping them obtain counseling, employment, and housing. She also wrote a self-help book. Ms. Benson speaks to incarcerated women about self-care, accountability, and making good choices.

Ms. Benson testified that she informed the examiner who administered her licensing exam about her criminal background. According to Ms. Benson, the examiner told her she could take the test and provide an explanation. Ms. Benson denied that she did not disclose her criminal background on her application.⁷³

D. LETTERS OF RECOMMENDATION

Ms. Benson provided eight letters of recommendation during the application process, which are summarized as follows:

- Shamika Morris has worked with Ms. Benson on several CNA assignments over the past three years. Ms. Morris stated Ms. Benson

⁷¹ Staff Ex. 2 at TDI 270-276.

⁷² The attorney, Kymberly McMorries, provided a letter of recommendation for Ms. Benson, which is detailed further below. Staff Ex. 2 at TDI 242, 252. Duplicate copies of the letters of recommendation were provided; the ALJ has provided citations to both copies.

⁷³ In an undated communication with the Department, Ms. Benson explained she understood she would be subjected to a criminal background check as part of the application process. She stated she was not apprehensive about disclosing her background. Staff Ex. 2 at TDI 223.

demonstrated professionalism, reliability, and interpersonal skills that made her a trusted team member.⁷⁴

- Virgi Harris explained Ms. Benson has provided caretaker services for her family. In this capacity, Ms. Benson cared for Ms. Harris' mother-in-law while the family was on vacation and provided housesitting services. Ms. Harris described Ms. Benson as dependable.⁷⁵
- Dana Jackson has known Ms. Benson for over 30 years. According to Ms. Jackson, Ms. Benson is honest, polite, hardworking, and helpful.⁷⁶
- Terrance Bean has known Ms. Benson for 18 years in a professional and personal capacity. Specifically, Ms. Benson served as a caretaker for an elderly relative of Mr. Bean. Mr. Bean described Ms. Benson as reliable and trustworthy.⁷⁷
- Davy Leffall has known Ms. Benson for many years.⁷⁸ Mr. Leffall described Ms. Benson as hardworking and able to maintain calm in stressful situations. He acknowledged Ms. Benson has endured and overcome adversity, which has given her strength and resilience.⁷⁹
- Kymberly McMorries is a probate, guardianship, and mental health attorney; she knows Ms. Benson through her work as a caregiver to wards assigned to Ms. McMorries. Ms. McMorries has referred Ms. Benson to other attorneys who are looking for a caregiver for clients. Ms. McMorries also hired Ms. Benson to serve as a caregiver

⁷⁴ Staff Ex. 2 at TDI212,247.

⁷⁵ Staff Ex. 2 at TDI213, 248.

⁷⁶ Staff Ex. 2 at TDI214, 249.

⁷⁷ Staff Ex. 2 at TDI 215, 250.

⁷⁸ Mr. Leffall did not provide the exact amount of time he has known Ms. Benson.

⁷⁹ Staff Ex. 2 at TDI 240, 251.

for her (Ms. McMorries's) mother. Ms. McMorries described Ms. Benson as dependable, loyal, and compassionate.⁸⁰

- Eric D. Davis has known Ms. Benson for over 15 years and described her as a good friend to his family. Mr. Davis stated that Ms. Benson is compassionate, dependable, caring, and hardworking.⁸¹
- Michelle Wilson has known Ms. Benson for 30 years and described her as a close family friend. Ms. Wilson described Ms. Benson as being honest and having outstanding character, a strong work ethic, and integrity.⁸²

IV. ANALYSIS AND RECOMMENDATION

A. FRAUDULENT/DISHONEST CONDUCT, FELONY CONVICTIONS, AND CRIMINAL HISTORY AS GROUNDS FOR DENIAL

The Department may deny a license application if the applicant has engaged in fraudulent or dishonest acts or has been convicted of a felony.⁸³ In addition, 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.”⁸⁴ In determining whether to deny a license application based on a person's criminal history, the Department will consider the factors specified in

⁸⁰ Staff Ex. 2 at TDI 242, 252.

⁸¹ Staff Ex. 2 at TDI 243, 253.

⁸² Staff Ex. 2 at TDI 244, 254.

⁸³ Tex. Ins. Code §§ 4005.101(b)(5), (8).

⁸⁴ Tex. Occ. Code § 53.021(a)(1); 28 Tex. Admin. Code § 1.502(d)(1).

Texas Occupations Code sections 53.022 and 53.023,⁸⁵ as addressed above. Further, the Department considers offenses with (1) essential elements of fraud, dishonesty, or deceit; (2) crimes pertaining to the financial industry, including fraud offenses; (3) felonies involving moral turpitude; and (4) any offense with the essential elements of assault or theft to be “guideline crimes” that are of prime importance in determining fitness for licensure and that are directly related to the occupations it licenses.⁸⁶

The Department presented uncontested evidence demonstrating Ms. Benson was convicted of 15 criminal offenses between 1989 and 2021.⁸⁷ However, not all these convictions serve as a basis for denying her license. Upon review of Ms. Benson’s criminal history in conjunction with the applicable provisions and rules, the Department may deny Ms. Benson’s application based on the following convictions: Theft, False Statement to Obtain Credit, Credit Card Abuse, Assault, Forgery, Fraudulent Use of Identifying Information, Tampering with Evidence, and Evading Arrest. The Department may not deny Ms. Benson’s application based on her convictions for an offense involving Possession of a Counterfeit Driver’s License or Failure to ID. The ALJ has analyzed each conviction below.

⁸⁵ 28 Tex. Admin. Code § 1.502(e).

⁸⁶ 28 Tex. Admin. Code § 1.502(f)(1), (2)(A), (3), (4)(F), (K).

⁸⁷ Staff Ex. 2 at TDI 029-057, 058-063, 067-069, 086-088, 124-129, 163-165, 168-170, 175-179, 182-184, 195-197, 216-218.

1. Theft Convictions

Ms. Benson was convicted of three misdemeanor theft offenses between September 1989 and May 1992.⁸⁸ Denial under Texas Insurance Code section 4005.101(b)(8) is not warranted because Ms. Benson's Theft convictions were misdemeanors. However, Ms. Benson's Theft convictions demonstrate that she engaged in dishonest acts or practices and, therefore, the Department may deny her application pursuant to Texas Insurance Code section 4005.101(b)(5).

Because Ms. Benson's Theft convictions are directly related to the duties and responsibilities of the licensed occupation, this serves as an independent basis for denying her application.⁸⁹ The Department has already taken into account the factors in Texas Occupations Code section 53.022 in determining that theft offenses are of such a serious nature that they are of prime importance in determining fitness for licensure, are directly related to Department-licensed occupations, and are of prime importance in determining fitness for licensure.⁹⁰ Accordingly, the Department may also deny Ms. Benson's application for her Theft convictions under Texas Occupations Code section 53.021(a)(1) and 28 Texas Administrative Code section 1.502(d)(1).

⁸⁸ Staff Ex. 2 at TDI 067-069, 124-126.

⁸⁹ Tex. Occ. Code §§ 53.021(a)(1), .022, .025; 28 Tex. Admin. Code § 1.502(d)(1).

⁹⁰ Tex. Occ. Code §§ 53.021(a)(1), .022, .025; 28 Tex. Admin. Code § 1.502(f)(4)(K).

2. False Statement to Obtain Credit Convictions

Ms. Benson has two convictions for False Statement to Obtain Credit, including a 1993 misdemeanor and a 2014 SJF. These convictions demonstrate Ms. Benson engaged in fraudulent or dishonest acts.⁹¹ Accordingly, these convictions may serve as a ground for license denial or disciplinary action under Texas Insurance Code section 4005.101(b)(5). Additionally, because the 2014 conviction was a felony, this serves as an additional basis for denial of Ms. Benson's application.⁹²

Because Ms. Benson's convictions for False Statement to Obtain Credit are directly related to the duties and responsibilities of the licensed occupation, this may serve as an additional basis for denying her application.⁹³ The Department has already taken into account the factors in Texas Occupations Code section 53.022 in determining that offenses involving fraud, dishonesty, or deceit and offenses pertaining to the financial industry, including fraud offenses under Texas Penal Code chapter 32, are of such a serious nature that they are of prime importance in determining fitness for licensure and are directly related to Department-licensed occupations.⁹⁴ The offense of False Statement to Obtain Credit meets these criteria.⁹⁵ Further, Ms. Benson's felony conviction for False Statement to Obtain

⁹¹ Tex. Admin. Code § 4005.101(b)(5).

⁹² Tex. Ins. Code § 4005.101(b)(8).

⁹³ Tex. Occ. Code § 53.021(a)(1); 28 Tex. Admin. Code § 1.502(d)(1).

⁹⁴ Tex. Occ. Code §§ 53.021(a)(1), .022, .025; 28 Tex. Admin. Code § 1.502(d)(1), (f)(1), (2)(A).

⁹⁵ Tex. Occ. Code §§ 53.021(a)(1), .022, .025; 28 Tex. Admin. Code § 1.502(d)(1), (f)(1), (2)(A).

Credit is a crime of prime importance because it is a felony involving moral turpitude.⁹⁶ Accordingly, the Department may also deny Ms. Benson's application pursuant to Texas Occupations Code section 53.021(a)(1) and 28 Texas Administrative Code section 1.502(d)(1) for her False Statement to Obtain Credit convictions.⁹⁷

3. Credit Card Abuse Convictions

Ms. Benson has two convictions for Credit Card Abuse, including a 1995 misdemeanor and a 1998 SJF.⁹⁸ By committing the offense of Credit Card Abuse, Ms. Benson engaged in fraudulent or dishonest acts or practices, and denial of her application is therefore warranted under Texas Insurance Code section 4005.101(b)(5).⁹⁹ Further, because Ms. Benson's 1998 conviction was a felony, her application may also be denied under Texas Insurance Code section 4005.101(b)(8).

Because Ms. Benson's convictions for Credit Card Abuse directly relate to the duties and responsibilities of the licensed occupation, this may serve as an additional basis for denying her application for licensure.¹⁰⁰ The Department has already taken into account the factors in Texas Occupations Code section 53.022 in determining that offenses involving fraud, dishonesty, or deceit and offenses pertaining to the

⁹⁶ 28 Tex. Admin. Code § 1.502(f)(3).

⁹⁷ Tex. Occ. Code §§ 53.021(a)(1), .022, .025; 28 Tex. Admin. Code § 1.502(d)(1), (f)(4)(K).

⁹⁸ Staff Ex. 2 at TDI 168-170.

⁹⁹ Tex. Penal Code § 32.31(b).

¹⁰⁰ Tex. Occ. Code §§ 53.021(a)(1), .022, .025; 28 Tex. Admin. Code § 1.502(d)(1)

financial industry, including fraud offenses under Texas Penal Code chapter 32, are of such a serious nature that they are of prime importance in determining fitness for licensure and are directly related to Department-licensed occupations.¹⁰¹ The offense of Credit Card Abuse meets these criteria.¹⁰² Further, Ms. Benson's felony conviction for Credit Card Abuse is a crime of prime importance because it is a felony involving moral turpitude.¹⁰³ For these reasons, the Department may also deny Ms. Benson's application pursuant to Texas Occupations Code section 53.021(a)(1) and 28 Texas Administrative Code section 1.502(d)(1).¹⁰⁴

4. Assault Conviction

In June 1998, Ms. Benson pleaded guilty to misdemeanor Assault.¹⁰⁵ Denial of licensure under Texas Insurance Code section 4005.101(b) is not warranted because the offense is not indicative of fraudulent or dishonest practices and Ms. Benson was not convicted of a felony.¹⁰⁶ However, the Department may deny Ms. Benson's application because the offense directly relates to the duties and responsibilities of the licensed profession.¹⁰⁷ The Department has already taken into account the factors in Texas Occupations Code section 53.022 in determining that

¹⁰¹ Tex. Occ. Code §§ 53.021(a)(1), .022, .025; 28 Tex. Admin. Code § 1.502(d)(1), (f)(1), (2)(A).

¹⁰² Tex. Occ. Code §§ 53.021(a)(1), .022, .025; 28 Tex. Admin. Code § 1.502(d)(1), (f)(1), (2)(A).

¹⁰³ 28 Tex. Admin. Code § 1.502(f)(3).

¹⁰⁴ Tex. Occ. Code §§ 53.021(a)(1), .022, .025; 28 Tex. Admin. Code § 1.502(d)(1).

¹⁰⁵ Staff Ex. 2 at TDI 175-179.

¹⁰⁶ Tex. Ins. Code § 4005.101(b)(5), (8).

¹⁰⁷ Tex. Occ. Code §§ 53.021(a)(1), .022, .025; 28 Tex. Admin. Code § 1.502(d)(1).

assaultive offenses are of such a serious nature that they are of prime importance in determining fitness for licensure and are directly related to Department-licensed occupations.¹⁰⁸ Accordingly, the Department may deny Ms. Benson's license pursuant to Texas Occupations Code section 53.021(a)(1) and 28 Texas Administrative Code 1.502(d)(1) for her Assault conviction.¹⁰⁹

5. Forgery Conviction

On July 23, 1999, Ms. Benson was convicted of the SJF offense of Forgery.¹¹⁰ The Department may deny Ms. Benson's application because, by committing the offense of Forgery, Ms. Benson engaged in fraudulent or dishonest acts or practices.¹¹¹ Further, the Department may deny Ms. Benson's application for licensure because she has been convicted of a felony.¹¹²

In addition, because Ms. Benson's Forgery conviction directly relates to the duties and responsibilities of the licensed occupation, this may serve as an additional basis for denying her application.¹¹³ The Department has already taken into account the factors in Texas Occupations Code section 53.022 in determining that offenses involving fraud, dishonesty, or deceit; offenses pertaining to the financial industry,

¹⁰⁸ Tex. Occ. Code §§ 53.021(a)(1), .022, .025; 28 Tex. Admin. Code § 1.502(d)(1), (f)(4)(F).

¹⁰⁹ Tex. Occ. Code §§ 53.021(a)(1), .022, .025; 28 Tex. Admin. Code § 1.502(d)(1), (f)(4)(K).

¹¹⁰ Staff Ex. 2 at TDI 044-057.

¹¹¹ Tex. Ins. Code § 4005.101(5).

¹¹² Tex. Ins. Code § 4005.101(8).

¹¹³ Tex. Occ. Code §§ 53.021(a)(1), .022, .025; 28 Tex. Admin. Code § 1.502(d)(1).

including fraud offenses under Texas Penal Code chapter 32; and felonies involving moral turpitude are of such a serious nature that they are of prime importance in determining fitness for licensure and are directly related to Department-licensed occupations.¹¹⁴ Forgery meets these criteria.¹¹⁵ For these reasons, the Department may also deny Ms. Benson's application pursuant to Texas Occupations Code section 53.021(a)(1) and 28 Texas Administrative Code section 1.502(d)(1).

6. Fraudulent Use of Identifying Information Conviction

In June 2019, Ms. Benson was convicted of the SJF offense of Fraudulent Use of Identifying Information.¹¹⁶ The Department may deny Ms. Benson's application for licensure based on this conviction because Ms. Benson engaged in fraudulent or dishonest practices and because she was convicted of a felony.¹¹⁷

Additionally, because Ms. Benson's Fraudulent Use of Identifying Information conviction directly relates to the duties and responsibilities of the licensed occupation, this may serve as an additional basis for denying her application for licensure.¹¹⁸ The Department has already taken into account the factors in Texas Occupations Code section 53.022 in determining that offenses involving fraud, dishonesty, or deceit; offenses pertaining to the financial industry, including fraud

¹¹⁴ 28 Tex. Admin. Code §§ 1.502(f)(1), (2)(A), (3).

¹¹⁵ 28 Tex. Admin. Code §§ 1.502(f)(1), (2)(A), (3).

¹¹⁶ Staff Ex. 2 at TDI 121-123.

¹¹⁷ Tex. Ins. Code § 4005.101(b)(5), (8).

¹¹⁸ Tex. Occ. Code §§ 53.021(a)(1), .022, .025; 28 Tex. Admin. Code § 1.502(d)(1).

offenses under Texas Penal Code chapter 32; and felonies involving moral turpitude are of such a serious nature that they are of prime importance in determining fitness for licensure and are directly related to Department-licensed occupations.¹¹⁹ The offense of Fraudulent Use of Identifying Information meets these criteria.¹²⁰ For these reasons, the Department may also deny Ms. Benson’s application pursuant to Texas Occupations Code section 53.021(a)(1) and 28 Texas Administrative Code section 1.502(d)(1).

7. Tampering with Evidence Conviction

In November 2021, Ms. Benson was convicted of the third-degree felony offense of Tampering with Evidence.¹²¹ Denial under Texas Insurance Code section 4005.101(b)(5) is not warranted because the offense does not involve fraudulent or dishonest practices. Because Ms. Benson was convicted of a felony, the Department may deny her application for licensure pursuant to Texas Insurance Code section 4005.101(b)(8).

The ALJ must also consider whether the offense of Tampering With Evidence relates to the duties and responsibilities of the licensed occupation, which would create a separate ground for denial of Ms. Benson’s application.¹²² Tampering With Evidence is not included in the “guideline” crimes, which are of prime importance

¹¹⁹ 28 Tex. Admin. Code §§ 1.502(f)(1), (2)(A), (3).

¹²⁰ 28 Tex. Admin. Code §§ 1.502(f)(1), (2)(A), (3).

¹²¹ Staff Ex. 2 at TDI 086-088.

¹²² Tex. Occ. Code § 53.021(a)(1); 28 Tex. Admin. Code § 1.502(d)(1).

in determining fitness for licensure.¹²³ Accordingly, the ALJ must analyze this offense under Texas Occupations Code section 53.022.

The classification of Tampering With Evidence ranges from a Class A misdemeanor to a second-degree felony, depending on the underlying conduct; accordingly, it is a serious offense.¹²⁴ The Department failed to demonstrate the relationship of Tampering with Evidence to the purposes for requiring a license to engage in the occupation; the extent to which a license would offer Ms. Benson an opportunity to further engage in this offense; the relationship of this offense to Ms. Benson's ability or capacity to perform the duties and discharge the responsibilities of the licensed occupation; or the correlation between the elements of Tampering with Evidence and the duties and responsibilities of the licensed occupation.¹²⁵ For these reasons, the ALJ does not find the offense of Tampering with Evidence is directly related to the duties and responsibilities of the licensed occupation.¹²⁶ Accordingly, the Department has not met its burden to demonstrate additional grounds for denial under Texas Occupations Code section 53.021(a)(1) and 28 Texas Administrative Code section 1.502(d)(1) for this offense.

¹²³ Tex. Occ. Code § 53.025; 28 Tex. Admin. Code § 1.502(f).

¹²⁴ Tex. Occ. Code § 53.022(1). Class A is the most serious level of misdemeanor. Tex. Penal Code § 12.03(a).

¹²⁵ Tex. Occ. Code § 53.022(2)-(5).

¹²⁶ Tex. Occ. Code § 53.021(a)(1); 28 Tex. Admin. Code § 1.502(d)(1).

8. Evading Arrest Convictions

Ms. Benson has two convictions for Evading Arrest, including a 1992 misdemeanor and a 2021 third-degree felony.¹²⁷ The offense of Evading Arrest does not involve fraudulent or dishonest acts or practices; therefore, the Department may not deny Ms. Benson's application pursuant to Texas Insurance Code section 4005.101(b)(5). However, because Ms. Benson's 2021 conviction was a felony, the Department may deny her application under Texas Insurance Code section 4005.101(b)(8) for this conviction.

The ALJ must further consider whether Evading Arrest directly relates to the duties and responsibilities of the licensed occupation as this may serve as a separate basis for denial of Ms. Benson's application.¹²⁸ While the Department has designated certain offenses as being of such a nature that they are directly related to the duties and responsibilities of the licensed occupation or are of prime importance in determining fitness for licensure, Evading Arrest is not included among these offenses.¹²⁹ Therefore, the ALJ must analyze the offense under Texas Occupations Code section 53.022 to determine whether it directly relates to the duties and responsibilities of the licensed occupation.

¹²⁷ Staff Ex. 2 at TDI 195-197, 216-218.

¹²⁸ Tex. Occ. Code § 53.021(a)(1); 28 Tex. Admin. Code § 1.502(d)(1).

¹²⁹ Tex. Occ. Code § 53.025; 28 Tex. Admin. Code § 1.502(f).

In conducting this analysis, the ALJ finds Evading Arrest is a serious crime, which may result in serious injury to bystanders, particularly when motor vehicles are involved.¹³⁰ However, the Department failed to demonstrate the relationship of the offense to the purposes for requiring a license to engage in the occupation; the extent to which a license would offer Ms. Benson an opportunity to further engage in this offense; the relationship of this offense to Ms. Benson's ability or capacity to perform the duties and discharge the responsibilities of the licensed occupation; or the correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.¹³¹ Accordingly, the ALJ does not find Evading Arrest is directly related to the duties and responsibilities of the licensed occupation and, therefore, the Department has not met its burden as to this additional ground for denial of Ms. Benson's application.¹³²

9. Possession of a Counterfeit Driver's License

In January 1993, Ms. Benson pleaded guilty to Possession of a Counterfeit Driver's License.¹³³ The ALJ finds the Department has not met its burden to demonstrate Ms. Benson's application may be denied as a result of this conviction.

¹³⁰ Tex. Occ. Code § 53.022(1).

¹³¹ Tex. Occ. Code § 53.022(2)-(5).

¹³² Tex. Occ. Code § 53.021(a)(1); 28 Tex. Admin. Code § 1.502(d)(1).

¹³³ Staff Ex. 2 at TDI 182-184.

Generally, the Department may deny an application based on felony convictions.¹³⁴ However, as discussed above, Ms. Benson's sentence for this conviction was reduced to a Class A misdemeanor.¹³⁵ In addition, the ALJ has been unable to review the applicable statutory provision underlying this offense and it is unclear whether the elements of Possession of a Counterfeit Driver's License required a finding that Ms. Benson engaged in fraudulent or dishonest practices; notably the offense involved the *possession* of a counterfeit license, however, the evidence failed to demonstrate that Ms. Benson came into possession of the counterfeit license through fraudulent or dishonest acts.¹³⁶ Therefore, denial under Texas Insurance Code section 4005.101(b)(5) and (8) is not warranted.

Further, absent clear documentation regarding the nature of the conviction, the ALJ cannot ascertain whether the offense directly relates to the duties and responsibilities of the licensed occupation.¹³⁷ For these reasons, the ALJ finds the Department has not met its burden to demonstrate Ms. Benson's license may be denied as a result of this conviction.¹³⁸

10. Failure to ID Conviction

¹³⁴ Tex. Ins. Code § 4005.101(b)(8).

¹³⁵ Tex. Ins. Code § 4005.101(b)(8).

¹³⁶ Tex. Ins. Code § 4005.101(b)(5).

¹³⁷ Tex. Occ. Code § 53.021(a)(1); 28 Tex. Admin. Code § 1.502(d)(1).

¹³⁸ Tex. Ins. Code § 4005.101(b)(8), Tex. Occ. Code § 53.021(a)(1), 28 Tex. Admin. Code § 1.502(d)(1).

In March 2003, Ms. Benson was convicted of the misdemeanor offense of Failure to ID.¹³⁹ This conviction does not warrant denial of Ms. Benson’s application under Texas Insurance Code section 4005.101(b) because (1) there is no evidence that, by committing this offense, Ms. Benson engaged in fraudulent or dishonest acts and (2) the conviction was for a misdemeanor.¹⁴⁰

The ALJ must also consider whether Failure to ID relates to the duties and responsibilities of the licensed occupation.¹⁴¹ Failure to ID is not included in the “guideline” crimes, which the Department has determined are of prime importance in determining fitness for licensure.¹⁴² Accordingly, the ALJ must analyze the offense under the factors contained in Texas Occupations Code section 53.022. Failure to ID is a misdemeanor offense that does not pose an inherent risk to public safety.¹⁴³ The Department failed to demonstrate the relationship of Failure to ID to the purposes for requiring a license to engage in the occupation; the extent to which a license would offer Ms. Benson an opportunity to further engage in this offense; the relationship of this offense to Ms. Benson’s ability or capacity to perform the duties and discharge the responsibilities of the licensed occupation; or the correlation between the elements of Failure to ID and the duties and responsibilities of the

¹³⁹ Staff Ex. 2 at TDI 058-060.

¹⁴⁰ Tex. Ins. Code § 4005.101(b)(5), (8).

¹⁴¹ Tex. Occ. Code § 53.021(a)(1); 28 Tex. Admin. Code § 1.502(d)(1).

¹⁴² Tex. Occ. Code § 53.025; 28 Tex. Admin. Code § 1.502(f).

¹⁴³ Tex. Occ. Code § 53.022(1).

licensed occupation.¹⁴⁴ Therefore, the ALJ does not find the offense of Failure to ID is directly related to the duties and responsibilities of the licensed occupation.¹⁴⁵

For these reasons, the ALJ finds Ms. Benson's Failure to ID conviction should not be considered as grounds for the denial of her application for licensure.¹⁴⁶

B. FITNESS FOR LICENSURE IN VIEW OF MITIGATING FACTORS

Having determined that the Department may deny Ms. Benson's application for licensure due to her criminal history, the ALJ must consider whether denial is the appropriate sanction. In conducting this analysis, the Department's rules require the ALJ to examine the factors under Texas Occupations Code section 53.023.¹⁴⁷ Ms. Benson has an extensive criminal history, spanning 30 years and including numerous felonies.¹⁴⁸ Ms. Benson was in her mid-twenties when she committed her earliest offenses and continued committing offenses until she was in her fifties; the majority of her offenses cannot be considered youthful indiscretions.¹⁴⁹ She committed her last criminal offense approximately six years ago.¹⁵⁰ Little information

¹⁴⁴ Tex. Occ. Code § 53.022(2)-(5).

¹⁴⁵ Tex. Occ. Code § 53.021(a)(1); 28 Tex. Admin. Code § 1.502(d)(1).

¹⁴⁶ Tex. Ins. Code § 4005.101(b)(5), (8); Tex. Occ. Code § 53.021(a)(1); 28 Tex. Admin. Code § 1.502(d)(1).

¹⁴⁷ 28 Tex. Admin. Code § 1.502(e).

¹⁴⁸ Tex. Occ. Code § 53.023(a)(1).

¹⁴⁹ Tex. Occ. Code § 53.023(a)(2).

¹⁵⁰ Tex. Occ. Code § 53.023(a)(3).

was provided regarding Ms. Benson’s conduct and employment prior to her criminal activity, however, the evidence demonstrated that her criminal offenses may have been motivated by drug addiction.¹⁵¹

Weighing in favor of licensure, since her last offense in 2019, Ms. Benson obtained her CNA license and doula and hydrotherapist certifications, maintained steady employment, and founded a nonprofit organization.¹⁵² As evidence of Ms. Benson’s rehabilitation, she has not reoffended and assists other female inmates and those who have recently been released from incarceration through her nonprofit organization.¹⁵³ The evidence demonstrated that in 2007, Ms. Benson had her probation revoked in her 1999 Forgery case; however, she completed all of the terms of, and was discharged early from, her most recent probation.¹⁵⁴ Ms. Benson provided numerous letters of recommendation, and the authors of these letters spoke favorably of Ms. Benson’s character.¹⁵⁵ While several of the authors indicated they had known Ms. Benson for an extended period of time, it is unclear whether all of the authors were fully aware of Ms. Benson’s criminal history.

Upon consideration of these factors, the ALJ finds Ms. Benson has not demonstrated by a preponderance of the evidence that she is currently fit for

¹⁵¹ Tex. Occ. Code § 53.023(a)(4).

¹⁵² Tex. Occ. Code § 53.023(a)(4).

¹⁵³ Tex. Occ. Code § 53.023(a)(5).

¹⁵⁴ Tex. Occ. Code § 53.023(a)(6).

¹⁵⁵ Tex. Occ. Code § 53.025(a)(7).

licensure. It is commendable that Ms. Benson has maintained steady employment as a CNA and has founded a nonprofit organization. The ALJ is also mindful that Ms. Benson has not reoffended since her 2019 offenses and this supports her contention that the events underlying those offenses were a wakeup call.

Nevertheless, Ms. Benson has numerous serious convictions, including several convictions for crimes involving fraudulent activity, such as Credit Card Abuse, Forgery, False Statement to Obtain Credit, and Fraudulent Use of Identifying Information. Additionally, Ms. Benson was released from probation just over a year ago. If licensed, Ms. Benson would have access to the same types of personal and financial information she used to commit these offenses. While Ms. Benson has had access to some personal and financial information through her work as a CNA, the ALJ finds that not enough time has elapsed since Ms. Benson's most recent conduct and release from probation for her to establish a record of good conduct absent court supervision.

For these reasons, the ALJ finds Ms. Benson's mitigating evidence does not outweigh the seriousness of her offenses, many of which are directly related to her licensed occupation.¹⁵⁶ Accordingly, the ALJ recommends denial of Ms. Benson's all-lines insurance adjuster license based on her criminal history.¹⁵⁷

¹⁵⁶ As discussed above, Ms. Benson's convictions for Theft, False Statement to Obtain Credit Card Abuse, Assault, Forgery, and Fraudulent Use of Identifying Information are directly related to the licensed occupation.

¹⁵⁷ Tex. Occ. Code § 53.021(a)(1); 28 Tex. Admin. Code § 1.502(d)(1).

C. MATERIAL MISSTATEMENT IN RESPONDENT’S LICENSE APPLICATION

The Department may also deny a license application or discipline a license holder, if the applicant or licensee intentionally made a material misstatement on the license application or obtained or attempted to obtain a license by fraud or misrepresentation.¹⁵⁸ Because Ms. Benson responded “no” to the criminal history questions on the application despite her extensive criminal history to the contrary, the ALJ finds Ms. Benson made material misstatements on her application. To serve as a basis for denial of Ms. Benson’s licensure, however, the evidence must also demonstrate that these misstatements were intentional and/or that, in making these misstatements, Ms. Benson attempted to obtain her license by fraud or misrepresentation.¹⁵⁹

The ALJ has the difficult task of ascertaining Ms. Benson’s state of mind at the time she completed the application. Ms. Benson’s criminal history demonstrates a pattern of dishonesty and deceit, which could bolster the Department’s contention that these misstatements were intentional. However, at the time Ms. Benson completed her application, she was likely aware that the Department would conduct a background check and that any attempt at subterfuge would be discovered, especially given that she had already received other licenses and certifications by that time. It seems unlikely that Ms. Benson would take such a risk. Moreover,

¹⁵⁸ Tex. Ins. Code § 4005.101(b)(2), (3).

¹⁵⁹ Tex. Ins. Code § 4005.101(b)(2), (3).

Ms. Benson testified credibly that since her last criminal offense in 2019, she has worked to improve her life. Given her demonstrated efforts, the ALJ finds it more likely than not that the misstatement on Ms. Benson's application regarding her criminal history was unintentional and was not an attempt to obtain a license by fraud or misrepresentation. For these reasons, the ALJ finds the Department has not met its burden as to this allegation and may not deny Ms. Benson's application pursuant to Texas Insurance Code section 4005.101(b)(2), (3).

D. RECOMMENDATION

Accordingly, the ALJ finds that Ms. Benson's application may be denied because she has engaged in fraudulent or dishonest acts or practices, has committed felony offenses, and has been convicted of offenses that directly relate to the duties and responsibilities of the occupation of insurance adjuster. Further, the mitigating evidence provided by Ms. Benson does not outweigh the seriousness of her criminal convictions. For these reasons, the ALJ recommends the Department deny Ms. Benson's application for licensure.

V. FINDINGS OF FACT

Application

1. Insurance adjusters represent insurance companies during the claims process. Specifically, adjusters ascertain existing coverage, appraise damage, recommend whether the claim should be denied or paid, and determine the amount of the claim. Adjusters often have authority to draft from the insurance carrier's accounts to pay claims. Adjusters work with consumers of all types of insurance products.

2. On July 2, 2024, Kim Benson (Respondent) applied for an all-lines insurance adjuster license with the Texas Department of Insurance (Department).
3. When asked on the application whether she had been convicted of a misdemeanor or felony, had a judgment for a misdemeanor or felony withheld or deferred, or was currently charged with a misdemeanor or felony, Ms. Benson replied no.
4. By stating that she had not previously been convicted of a misdemeanor or felony and had not had a judgment withheld or deferred, Ms. Benson made material misstatements on her application.
5. The evidence failed to demonstrate Ms. Benson's material misstatements on her application were intentional or were an attempt to obtain a license by fraud or misrepresentation.
6. On September 4, 2024, the Department proposed to deny Ms. Benson's application.

Respondent's Criminal History

7. On September 14, 1989, in Case No. 933546, Ms. Benson pleaded guilty to the misdemeanor offense of Theft of a Check in County Criminal Court at Law No. 6 in Harris County, Texas, for an offense occurring on October 31, 1986. Ms. Benson was sentenced to 15 days' confinement.
8. On December 16, 1991, in Case No. 914932, Ms. Benson pleaded nolo contendere to the misdemeanor offense of Theft in County Criminal Court at Law No. 7 in Harris County, Texas, for an offense occurring on December 2, 1991. Ms. Benson was sentenced to four days' confinement and a \$500 fine.
9. On May 19, 1992, in Case No. 9011896, Ms. Benson pleaded nolo contendere to the misdemeanor offense of Theft in County Court at Law No. 11, in Harris County Texas, for an offense occurring on March 25, 1990. Ms. Benson was sentenced to four days' confinement, to run concurrently, and a \$500 fine.

10. On May 19, 1992, in Case No. 9011897, Ms. Benson pleaded nolo contendere to the misdemeanor offense of Evading Arrest or Detention (Evading Arrest) in County Court at Law No. 11 in Harris County, Texas, for an offense occurring on March 25, 1990. Ms. Benson was sentenced to four days' confinement, to run concurrently, and a \$500 fine.
11. On January 21, 1993, in Case No. 652473, Ms. Benson pleaded guilty to Possession of a Counterfeit Driver's License in the 248th District Court of Harris County, Texas, for an offense occurring on December 21, 1992. The court imposed a sentence applicable to a Class A misdemeanor, rather than a felony-level sentence. Ms. Benson was sentenced to 90 days' confinement.
12. On February 3, 1993, in Case No. 9260790, Ms. Benson pleaded guilty to the misdemeanor offense of False Statement to Obtain Property or Credit (False Statement to Obtain Credit), in County Court at Law No. 3 in Harris County, Texas, for an offense occurring on December 21, 1992. Ms. Benson was sentenced to 90 days' confinement.
13. On August 1, 1995, in Case No. 9424804, Ms. Benson pleaded guilty to Credit/Debit Card Abuse (Credit Card Abuse), a Class A misdemeanor, in the 248th District Court of Harris County, Texas, for an offense dated October 19, 1994. Ms. Benson was sentenced to 15 days' confinement.
14. On June 1, 1998, in Case No. 76690801010 Ms. Benson pleaded guilty to the Class A misdemeanor of Assault in the 177th District Court of Harris County, Texas, for an offense dated October 26, 1997. Ms. Benson was sentenced to one year' confinement.
15. On June 1, 1998, Ms. Benson pleaded guilty in Case No. 76690901010, to the State Jail Felony (SJF) offense of Credit Card Abuse, in the 177th District Court of Harris County, Texas, for an offense occurring on October 26, 1997. Ms. Benson was sentenced to one year' confinement.
16. On July 23, 1999, Ms. Benson pleaded nolo contendere to the SJF offense of Forgery, in Case No. 31372, in the 268th District Court in Fort Bend County, Texas, for an offense occurring on January 9, 1999. Ms. Benson was sentenced to two years' confinement, but the court suspended the sentence and placed Ms. Benson on four years of probation; she was further assessed a fine of \$500.

On September 10, 2007, the court revoked Ms. Benson's probation and sentenced her to 180 days' confinement. Ms. Benson attempted to purchase clothing using a check and a fake driver's license at a retail establishment.

17. On March 21, 2003, Ms. Benson pleaded guilty in Case No. 1157472, to the offense of Failure to Identify Oneself to a Police Officer (Failure to ID), a Class B misdemeanor, in County Criminal Court at Law No. 5, in Harris County, Texas, for an offense occurring February 7, 2003. Ms. Benson was sentenced to two days' confinement, with credit for two days served, and assessed a \$400 fine.
18. On September 8, 2014, Ms. Benson pleaded guilty in Case No. 117672001010, to the SJF offense of False Statement to Obtain Credit, in the 338th District Court, in Harris County, Texas, for an offense occurring from July 22-July 29, 2008. Ms. Benson was sentenced to five days' confinement. Ms. Benson used the personal information of another person in a credit application submitted to Home Depot.
19. On June 10, 2019, Ms. Benson pleaded guilty in Case No. 157567601010, to the SJF offense of Fraudulent Use of Identifying Information – Less than Five Items (Fraudulent Use of Identifying Information), in the 174th District Court, in Harris County, Texas, for an offense occurring on December 10, 2017. Ms. Benson was sentenced to six months' confinement, with credit for two days served. Ms. Benson attempted to use a check belonging to another person who did not know Ms. Benson and had not authorized her to use the check.
20. On November 30, 2021, Ms. Benson pleaded guilty in Case No. 2019R-0107 to the third-degree felony offense of Tampering with Evidence with Intent to Impair (Tampering with Evidence) in the 155th District Court in Austin County, Texas, for an offense occurring on June 29, 2019. Ms. Benson was sentenced to 10 years' confinement, which the court suspended and placed Ms. Benson on community supervision for 10 years. Ms. Benson was also ordered to pay restitution in the amount of \$2,000.
21. On November 30, 2021, Ms. Benson pleaded guilty, in Case No. 2019R-108 to the third-degree felony offense of Evading Arrest/Detention with a Vehicle in the 155th District Court, in Austin County, Texas, for an offense occurring

on June 29, 2019. Ms. Benson was sentenced to 10 years' confinement, which the court suspended and placed Ms. Benson on community supervision for 10 years.

22. On September 18, 2024, the court granted Ms. Benson's Motion for Early Dismissal and Discharge from Probation. Ms. Benson completed all the requirements of her probation including community service, a drug evaluation, drug testing, and payment of approximately \$7,000 in fines.

Rehabilitative Efforts and Mitigating Factors

23. Ms. Benson was previously addicted to drugs and engaged in criminal activity to maintain her lifestyle. Since her last criminal offense in 2019, Ms. Benson is now sober and refrains from criminal activity and drug usage.
24. In 2019, Ms. Benson obtained her certified nursing assistant license (CNA). Ms. Benson is also a certified hydro-therapist and doula.
25. Since 2019, Ms. Benson has maintained steady employment as a CNA.
26. Ms. Benson founded a nonprofit organization to assist women who have been incarcerated.
27. Ms. Benson submitted eight letters of recommendation in support of her licensure application. Four of the letters are from individuals that have known Ms. Benson for 15 years or more. The references speak highly of Ms. Benson and her character. It is unknown whether all the references were aware of Ms. Benson's criminal history. Further, it is unknown whether those references who were aware of her criminal history were aware of its nature and severity.

SOAH Hearing

28. On June 27, 2025, Staff for the Department issued a notice of hearing with an original petition in which it sought denial of Ms. Benson's license application.
29. 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.

30. The hearing was convened by Zoom videoconference on September 2, 2025, by Administrative Law Judge Whitney L. Stoebner of the State Office of Administrative Hearings (SOAH). Attorney Jeannie Ricketts represented Staff. Ms. Benson appeared on her own behalf. The record closed on September 16, 2025, with the filing of the admitted exhibits and transcript.

VI. CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter. Tex. Ins. Code §§ 4001.002, .105, 4005.101, 4101.051-.062.
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. Benson received timely and sufficient notice of the hearing. Tex. Gov't Code 2001.051-.052; Tex. Ins. Code § 4005.104(b).
4. Staff had the burden of proving its basis for denying Ms. Benson's license application, while Ms. Benson has the burden to prove that she is fit to perform the duties and discharge the responsibilities of an insurance adjuster despite her criminal history, material misstatement on her license application, and fraudulent or dishonest acts or practices. 1 Tex. Admin. Code § 155.427.
5. The standard of proof is by a preponderance of the evidence. *Granek v. Texas State Bd. Of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App. – Austin 2005, no pet.).
6. The Department considers it very important that license holders and applicants be honest, trustworthy, and reliable. 28 Tex. Admin. Code § 1.502(c).
7. The Department may deny a license application or discipline a license holder on several grounds, including if the applicant or licensee has (1) intentionally

- made a material misstatement in the license application; (2) obtained or attempted to obtain a license by fraud or misrepresentation; (3) engaged in fraudulent or dishonest acts or practices; and (4) has been convicted of a felony. Tex. Ins. Code § 4005.101(b)(2), (3), (5), (8).
8. The Department also may deny an application for licensure or revoke, suspend, or refuse to renew a license if the applicant or licensee has been convicted of an offense that directly relates to the duties or responsibilities of the licensed occupation. Tex. Occ. Code § 53.021(a)(1); 28 Tex. Admin. Code § 1.502(d)(1).
 9. Each licensing authority shall issue guidelines relating to the practice of the licensing authority under chapter 53 of the Texas Occupations Code. The guidelines must state the reasons a particular crime is considered to relate to a particular license and any other criterion that affects the decisions of the licensing authority. Tex. Occ. Code § 53.025(a).
 10. 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; any criminal violation pertaining to the financial industry or business of insurance under any state law, including, a fraud offense, as described by Texas Penal Code chapter 32; any felony involving moral turpitude or breach of fiduciary duty; any offense with the essential elements of an assaultive offense as described by chapter 22 of the Texas Penal Code, and any offense with the essential elements of a theft offense as described by chapter 31 of the Texas Penal Code. Tex. Occ. Code § 53.022; 28 Tex. Admin. Code § 1.502(f)(1), (2)(A), (3), (4)(F), (K).
 11. A person commits the offense of Theft if he unlawfully appropriates property with intent to deprive the owner of property. Tex. Penal Code § 31.03(a).
 12. A person commits the offense of Credit Card Abuse if (1) with intent to obtain a benefit fraudulently, he presents or uses a credit card or debit card with knowledge that: (A) the card, whether or not expired, has not been issued to him and is not used with the effective consent of the cardholder; or (B) the card has expired or has been revoked or cancelled; (2) with intent to obtain a benefit, he uses a fictitious credit card or debit card or the pretended number

or description of a fictitious card; (3) he receives a benefit that he knows has been obtained in violation of this section; (4) he steals a credit card or debit card or, with knowledge that it has been stolen, receives a credit card or debit card with intent to use it, to sell it, or to transfer it to another person other than the issuer or the cardholder; (5) he buys a credit card or debit card from a person who he knows is not the issuer; (6) not being the issuer, he sells a credit card or debit card; (7) he uses or induces the cardholder to use the cardholder's credit card to obtain property or service for the actor's benefit for which the cardholder is financially unable to pay; (8) not being the cardholder, and without the effective consent of the cardholder, he signs or writes his name or the name of another on a credit card or debit card with intent to use it; (9) he possesses two or more incomplete credit cards or debit cards that have not been issued to him with intent to complete them without the effective consent of the issuer; (10) being authorized by an issuer to furnish goods or services on presentation of a credit card, he, with intent to defraud the issuer or cardholder, furnishes goods or services on presentation of a credit card obtained or retained in violation of this section or credit card that is forged, expired, or revoked; or (11) being authorized by an issuer to furnish goods or services on presentation of a credit card, he, with intent to defraud the issuer or a cardholder, fails to furnish goods or services that he represents in writing to the issuer that he has furnished. Tex. Penal Code § 32.31(b).

13. A person commits the offense of Forgery if he forges a writing with intent to defraud or harm another. Tex. Penal Code § 32.21(b).
14. A person commits the offense of Failure to ID if he intentionally refuses to give his name, residence address, or date of birth to a peace officer who has lawfully arrested the person and requested the information. Texas Penal Code section 38.02. If the person was a fugitive from justice at the time of the offense, the offense is a Class B misdemeanor. Tex. Penal Code § 38.02(d).
15. A person commits the offense of False Statement to Obtain Credit if a person intentionally or knowingly makes a materially false or misleading written statement to obtain property or credit. Tex. Penal Code section 32.32(b).
16. A person commits the offense of Fraudulent Use of Identifying Information if, in part, a person, with the intent to harm or defraud another, obtains,

possesses, transfers or uses an item of identifying information of another person without the other person's consent. Tex. Penal Code § 32.51(b)(1).

17. A person commits the offense of Assault if the person, in part, intentionally, knowingly, or recklessly causes bodily injury to another. Texas Penal Code section 22.01(a).
18. A person commits the offense of Tampering with Evidence if, knowing that an investigation or official proceeding is pending, he alters, destroys, or conceals any record, document, or thing with intent to impair its verity, legibility, or availability as evidence in the investigation or official proceeding. Tex. Penal Code § 37.09(a)(1).
19. A person commits the offense of Evading Arrest if he intentionally flees from a person he knows is a peace officer attempting lawfully to arrest or detain him. Tex. Penal Code § 38.04(a).
20. Ms. Benson's convictions for Theft, False Statement to Obtain Credit, Credit Card Abuse, Forgery, False Statement to Obtain Credit, and Fraudulent Use of Identifying Information demonstrate she engaged in fraudulent or dishonest practices and, therefore, the Department may deny her license application for these convictions. Tex. Ins. Code § 4005.101(b)(5).
21. Ms. Benson has felony convictions for Credit Card Abuse, Forgery, False Statement to Obtain Credit, Fraudulent Use of Identifying Information, Tampering with Evidence, and Evading Arrest, therefore, the Department may deny Ms. Benson's license application for these convictions. Tex. Ins. Code § 4005.101(b)(8).
22. The offenses of Theft, False Statement to Obtain Credit, Credit Card Abuse, Forgery, and Fraudulent Use of Identifying Information are offenses for which fraud, dishonesty, or deceit is an element and, therefore, are crimes of prime importance in determining fitness for licensure. 28 Tex. Admin. Code § 1.502(f)(1).
23. The offenses of False Statement to Obtain Credit, Credit Card Abuse, Forgery, and Fraudulent Use of Identifying Information are offenses

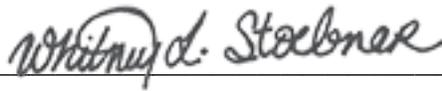
pertaining to the financial industry or business of insurance and are, therefore, crimes of prime importance. 28 Tex. Admin. Code § 1.502(f)(2)(A).

24. The offenses of False Statement to Obtain Credit, Credit Card Abuse, Forgery, and Fraudulent Use of Identifying Information are crimes of prime importance because these offenses may be designated as felonies and involve moral turpitude. 28 Tex. Admin. Code § 1.502(f)(3). *In re Humphreys*, 880 S.W.2d 402, 407-08 (Tex. 1994); *Brown v. Tex. Dep't of Ins.*, 34 S.W.3d 683, 690 (Tex. App.—Austin 2000, no pet.).
25. The offenses of Theft, False Statements to Obtain Credit, Credit Card Abuse, Assault, Forgery, and Fraudulent Use of Identifying Information are directly related to the duties and responsibilities of an insurance adjuster. Tex. Occ. Code §§ 53.021(a)(1), .022, .025; 28 Tex. Admin. Code § 1.502(d)(1), (f)(1), (2)(A), (3).
26. Ms. Benson was convicted of offenses that directly relate to the duties and responsibilities of the licensed occupation. 28 Tex. Admin. Code § 1.502(d)(1); Tex. Occ. Code § 53.021(a)(1).
27. The Department will consider the factors listed in Texas Occupations Code sections 53.022 and 53.023 in determining whether to issue a license to an applicant despite the applicant's criminal history or dishonest conduct and will not issue a license unless the mitigating factors outweigh the serious nature of the criminal offense or dishonest conduct when viewed in light of the occupation being licensed. Tex. Occ. Code § 53.021(a)(1); 28 Tex. Admin. Code § 1.502(e).
28. The preponderant evidence demonstrates Ms. Benson is not currently fit to perform the duties and discharge the responsibilities of a licensed all-lines insurance adjuster. Tex. Occ. Code § 53.023.

29. The Department should deny Ms. Benson's application for a licensed all-lines insurance adjuster.

Signed November 12, 2025.

ALJ Signature:

A handwritten signature in cursive script that reads "Whitney L. Stuebner". The signature is written in black ink and is positioned above a horizontal line.

Whitney L. Stuebner

Presiding Administrative Law Judge