

No. 2023-7861

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

**Date: 03/23/2023**

**Subject Considered:**

Texas Department of Insurance

v.

Lesley Leanna Allred

SOAH Docket No. 454-22-0142.C

**General Remarks and Official Action Taken:**

The subject of this order is Lesley Leanna Allred's application for a general lines agent license with a life, accident, and health qualification. This order denies Ms. Allred's application.

**Background**

After proper notice was given, the above-styled case was heard by an administrative law judge (ALJ) for the State Office of Administrative Hearings. The ALJ wrote and filed a proposal for decision containing a recommendation that the Texas Department of Insurance (TDI) deny Ms. Allred's application. A copy of the proposal for decision is attached as Exhibit A. TDI adopts the ALJ's proposed findings of fact and conclusions of law Nos. 1–6 and 8–12. TDI does not adopt Conclusion of Law No. 7.

No party filed exceptions to the proposal for decision, but in follow-up to the proposal for decision the ALJ submitted a letter to the commissioner of insurance acknowledging that recent TDI orders have concluded that deferred adjudications may be treated as convictions when analyzing criminal history under Tex. Occ. Code § 53.021(a), but not under Tex. Ins. Code § 4005.101(b)(8).<sup>1</sup> The ALJ noted that this precedent would impact the proposal for decision at page 12 and proposed Conclusions of Law Nos. 6 and 7. A

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<sup>1</sup> See, e.g., *Texas Department of Insurance v. Tejani*, SOAH Docket No. 454-21-0686.C, TDI Enforcement File No. 16613, Commissioner's Order No. 2022-7155 (Jan. 5, 2022) (legal analysis at pages 2–4).

COMMISSIONER'S ORDER  
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copy of the ALJ's letter is attached as Exhibit B, and based on the discussion in the letter proposed Conclusion of Law No. 7 is not adopted.

**Findings of Fact**


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

**Conclusions of Law**

1. Conclusions of Law Nos. 1–6 and 8–12, as contained in Exhibit A, are adopted by the commissioner and incorporated by reference into this order.
2. Conclusion of Law No. 7 is not adopted.

**Order**

It is ordered that Lesley Leanna Allred’s application for a general lines agent license with a life, accident, and health qualification is denied.

DocuSigned by:  
  
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Cassie Brown  
Commissioner of Insurance

Recommended and reviewed by:

DocuSigned by:  
  
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Jessica Barta, General Counsel

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Barbara Lazard-Hernandez, Attorney

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|----------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|----------------------------------------------------------------------------------------------|
| <p><b>TEXAS DEPARTMENT OF INSURANCE</b></p> <p>v.</p> <p><b>LESLEY LEANNA ALLRED,</b><br/><b>Applicant</b></p> | <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> | <p><b>BEFORE THE STATE OFFICE</b></p> <p><b>OF</b></p> <p><b>ADMINISTRATIVE HEARINGS</b></p> |
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### **PROPOSAL FOR DECISION**

The staff (Staff) of the Texas Department of Insurance (Department) seeks to deny the application of Lesley Leanna Allred for a general lines agent license based on her criminal history and misrepresentations in her license application. After considering the evidence and applicable law, the Administrative Law Judge (ALJ) recommends that the Department deny Ms. Allred's license application.

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

There were no contested issues of jurisdiction or notice, so those matters are addressed solely in the findings of fact and conclusions of law below. The hearing was held via Zoom videoconference on December 7, 2021, before ALJ Cassandra Quinn of the State Office of Administrative Hearings (SOAH). Attorney Sarah White represented Staff. Ms. Allred appeared and represented herself. The hearing concluded that day, and the record closed on December 22, 2021, when the court reporter's transcript was filed with SOAH.

#### **II. APPLICABLE LAW**

The Department considers it very important that license holders and applicants be honest, trustworthy, and reliable,<sup>1</sup> and will evaluate an applicant's criminal history and other conduct to determine whether the applicant possesses those qualities. The Department may deny a license application on several grounds, including if the applicant has engaged in fraudulent or dishonest

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<sup>1</sup> 28 Tex. Admin. Code § 1.502(c).

acts or practices,<sup>2</sup> has been convicted of a felony,<sup>3</sup> or has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation.<sup>4</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 §§ 53.022 and 53.023.<sup>5</sup> Texas Occupations Code § 53.022 sets forth the following 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
- (5) any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.<sup>6</sup>

To guide its decision-making when considering an applicant's criminal history, 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; these crimes include a felony offense of assault.<sup>7</sup> The Department has determined that the crimes it considers to be of prime importance are directly related to the occupations it licenses.<sup>8</sup>

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<sup>2</sup> Tex. Ins. Code § 4005.101(b)(5); *see also* 28 Tex. Admin. Code § 1.502(d) (authorizing the Department to refuse to issue a license if it determines the applicant "has engaged in fraudulent or dishonest activity that directly relates to the duties and responsibilities of the licensed occupation.")

<sup>3</sup> Tex. Ins. Code § 4005.101(b)(8); *see also* 28 Tex. Admin. Code § 1.502(d) (authorizing the Department to refuse to issue a license if it determines the applicant has committed a felony or misdemeanor).

<sup>4</sup> Tex. Occ. Code § 53.021(a)(1).

<sup>5</sup> 28 Tex. Admin. Code § 1.502(h).

<sup>6</sup> *See also* 28 Tex. Admin. Code § 1.502(h)(1).

<sup>7</sup> 28 Tex. Admin. Code § 1.502(e)(4)(B).

<sup>8</sup> 28 Tex. Admin. Code § 1.502(e); *see also* Tex. Occ. Code § 53.025.

After determining a criminal offense directly relates to the occupation, the Department considers the additional factors set forth in Texas Occupations Code § 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;
- (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>9</sup>

It is the applicant's responsibility, to the extent possible, to obtain and provide to the Department the applicant's evidence of fitness discussed above.<sup>10</sup> Additionally, an applicant must furnish proof to the Department that the applicant has: (1) maintained a record of steady employment; (2) supported the applicant's dependents, where applicable; (3) otherwise maintained a record of good conduct; and (4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.<sup>11</sup> The Department will not issue a license unless, when viewed in light of the occupation being licensed, the mitigating factors outweigh the serious nature of the criminal offense or the fraudulent or dishonest conduct.<sup>12</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 §§ 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

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<sup>9</sup> See also 28 Tex. Admin. Code § 1.502(h)(2).

<sup>10</sup> 28 Tex. Admin. Code § 1.502(h)(3); Tex. Occ. Code § 53.023(b).

<sup>11</sup> 28 Tex. Admin. Code § 1.502(h)(2)(G).

<sup>12</sup> 28 Tex. Admin. Code § 1.502(f).

person in the licensed occupation would create a situation in which the person has an opportunity to repeat the prohibited conduct.<sup>13</sup> If, after considering the above-listed factors, the Department determines that a deferred adjudication can be treated as a conviction for licensing purposes, then the same factors are weighed in determining whether the applicant is fit to perform the duties and discharge the responsibilities of the licensed occupation despite the criminal offense.<sup>14</sup>

In addition to the issues regarding an applicant's criminal history or fraudulent or dishonest conduct, the Department may deny a license if the applicant intentionally made a material misstatement in the license application or attempted to obtain a license by fraud or misrepresentation.<sup>15</sup>

In this proceeding, Staff has the burden of proving its grounds for denying Ms. Allred's license application, while Ms. Allred has the burden to prove her fitness to be licensed despite her criminal history or fraudulent or dishonest conduct.<sup>16</sup> The standard of proof is by a preponderance of the evidence.<sup>17</sup>

### III. EVIDENCE

At the hearing, Staff offered 18 exhibits, which were admitted into evidence, and presented the testimony of Lewis Weldon Wright IV, the Department's agent and adjuster liaison to its Enforcement Division. Ms. Allred testified on her own behalf and did not offer any exhibits.

#### A. Ms. Allred's Criminal History

Staff presented evidence that Ms. Allred has the following criminal history, which she did not dispute:

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<sup>13</sup> Tex. Occ. Code § 53.021(d).

<sup>14</sup> See Tex. Occ. Code §§ 53.022-.023(a).

<sup>15</sup> Tex. Ins. Code § 4005.101(b)(2)-(3).

<sup>16</sup> 1 Tex. Admin. Code § 155.427.

<sup>17</sup> *Granek v. Tex. St. Bd. of Med. Examin'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).

- On November 22, 2011, Ms. Allred was convicted of the misdemeanor offense of Assault-Bodily Injury in Cause No. 1236010 in County Criminal Court No. 3, Tarrant County, Texas. Ms. Allred was sentenced to 180 days' confinement, which was suspended for 24 months of community supervision.<sup>18</sup>
- Also on November 22, 2011, Ms. Allred was convicted of the misdemeanor offense of Driving While Intoxicated (DWI) in Cause No. 1236013 in County Criminal Court No. 3, Tarrant County, Texas. The court sentenced Ms. Allred to 180 days' confinement, which was suspended for 24 months of community supervision, and ordered her to pay a \$750 fine.<sup>19</sup>
- On October 3, 2012, the court revoked Ms. Allred's community supervision in Cause Nos. 1236010 and 1236013 due to probation violations and sentenced her to 30 days' confinement.<sup>20</sup>
- Also on October 3, 2012, Ms. Allred was convicted of the misdemeanor offense of Resisting Arrest/Search/Transportation in Cause No. 1283242 in County Criminal Court No. 3, Tarrant County, Texas. Ms. Allred was sentenced to 30 days' confinement and ordered to pay a \$100 fine.<sup>21</sup>
- On March 8, 2019, Ms. Allred received deferred adjudication for the state jail felony offense of Possession of a Controlled Substance of Less Than One Gram, Namely Heroin, in Cause No. 1563381D in the 432nd District Court, Tarrant County, Texas. The court placed Ms. Allred on community supervision for two years and ordered her to pay a \$200 fine and court costs.<sup>22</sup>
- On May 12, 2021, the court extended Ms. Allred's community supervision in Cause No. 1563381D for a period of one year.<sup>23</sup>
- Also on May 12, 2021, Ms. Allred received deferred adjudication for three felony offenses of Aggravated Assault with a Deadly Weapon, To-Wit: A Motor Vehicle, in Cause Nos. 1649149D, 1649151D, and 1649152D in the 432nd District Court, Tarrant County, Texas. The court placed Ms. Allred on community supervision for eight years and ordered her to pay an \$800 fine and court costs.<sup>24</sup>

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<sup>18</sup> Staff Ex. 8 at 175.

<sup>19</sup> Staff Ex. 9 at 183.

<sup>20</sup> Staff Ex. 8 at 177; Staff Ex. 9 at 186.

<sup>21</sup> Staff Ex. 10 at 191.

<sup>22</sup> Staff Ex. 11 at 194-95.

<sup>23</sup> Staff Ex. 11 at 201.

<sup>24</sup> Staff Ex. 12A at 203-04; Staff Ex. 12B at 211-12; Staff Ex. 12C at 219-20.

**B. Ms. Allred's License Applications**

On October 7, 2020, Ms. Allred applied to the Department for a general lines agent license with a life, accident, and health qualification.<sup>25</sup> The application included the following two questions regarding criminal history, to which Ms. Allred answered “no”:

Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?<sup>26</sup>

Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?<sup>27</sup>

On June 18, 2021, the Department proposed to deny Ms. Allred's application.<sup>28</sup> Ms. Allred timely appealed the Department's decision.<sup>29</sup>

Separately, on December 22, 2020, Ms. Allred applied to the Department for a *temporary* general lines agent license with a life, accident, and health qualification. The application for the temporary license contained the same criminal history questions listed above, to which Ms. Allred answered “yes.”<sup>30</sup> Based on the law in effect when Ms. Allred filed her application, the Department was required to issue a temporary license immediately on receipt of a properly completed application.<sup>31</sup> Accordingly, Ms. Allred was issued a temporary license. At that time, due to the COVID-19 pandemic, the Department was also subject to Commissioner's Bulletin

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<sup>25</sup> Staff Ex. 7A at 65-73.

<sup>26</sup> Staff Ex. 7A at 67. For this question, the application includes the following instructions:

You may exclude the following misdemeanor convictions or pending misdemeanor charges: traffic citations, driving under the influence (DUI), driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license.

You may also exclude juvenile adjudications (offenses where you were adjudicated delinquent in a juvenile court).

<sup>27</sup> Staff Ex. 7A at 67. As with the prior question, the application includes the following instruction: “You may exclude juvenile adjudications (offenses where you were adjudicated delinquent in a juvenile court).”

<sup>28</sup> Staff Ex. 7A at 52.

<sup>29</sup> Staff Ex. 7A at 51.

<sup>30</sup> Staff Ex. 7A at 56-64.

<sup>31</sup> Act of May 26, 2003, 78th Leg., R.S., ch. 1274, § 7 (amended 2021) (current version at Tex. Ins. Code § 4001.153). This statute was amended effective September 1, 2021, and now gives the Department discretion to deny temporary applications.



No. B-0008-20, which, among other things, provided that temporary licenses would remain active until further notice.<sup>32</sup> On July 22, 2021, the Department issued Commissioner's Bulletin No. B-0008-21, which superseded the prior bulletin and provided that "[a] temporary license issued before September 1, 2021, will expire on November 29, 2021."<sup>33</sup> Therefore, Ms. Allred's temporary license expired on November 29, 2021.<sup>34</sup>

### C. Testimony of Mr. Wright

Mr. Wright is the primary contact between the Department's legal department and its agent and adjuster licensing office. He testified that when an applicant for a license responds "yes" to the application's criminal history questions, or if a background check uncovers criminal history, the Department refers the application to its administrative review department, which obtains additional information from the applicant and makes a recommendation regarding licensing. Mr. Wright stated that the Department's intent is to protect consumers by ensuring that anyone granted a license is honest, trustworthy, and reliable. He emphasized that, due to the complexity of insurance transactions, there is room for misconduct, which is why these traits are so important for insurance agents.

In this case, Mr. Wright explained that the frequency, severity, and nature of Ms. Allred's crimes were key factors in the Department's decision to deny her application. When considering Ms. Allred's criminal history, Mr. Wright stated that her deferred adjudications for the four felony offenses—the 2019 possession of a controlled substance and three 2021 aggravated assaults with a deadly weapon—can be treated as convictions because the terms of Ms. Allred's probation have not been completed and the Department believes Ms. Allred may pose a continued threat to public safety, or that granting her a license will provide an opportunity to repeat the prohibited conduct.

Further, Mr. Wright testified that Ms. Allred's most recent offenses were committed on May 8, 2020, when she was 28 years old and, thus, cannot be attributed to youthful indiscretion or

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<sup>32</sup> Staff Ex. 13A.

<sup>33</sup> Staff Ex. 13B.

<sup>34</sup> The Department's notice of hearing sought revocation of Ms. Allred's temporary license if it was still in effect on the date of the hearing. However, because the license expired before the hearing, the request for revocation of the temporary license is moot. *See* Staff Ex. 5 at 45.

immaturity. The offenses were also very recent, just five months before Ms. Allred applied for the permanent license and a little over a year before the hearing. Mr. Wright also noted that the offenses were felony assaults, which the Department considers to be crimes of prime importance when determining fitness for licensure. He stated that insurance agents interact with the public, which can sometimes be contentious, particularly when dealing with life and health insurance matters, and, therefore, agents must show self-control and good decision making.

Mr. Wright described Ms. Allred's rehabilitative efforts as "fair, but brief." He acknowledged that she had provided letters of recommendation that spoke well of her recent activities, employment, work ethic, and communication with others. However, he stated that insufficient time had passed since her most recent offenses to determine that rehabilitation had occurred. In addition, he found it concerning that the personal statement Ms. Allred provided in response to the Department's inquiries into her criminal history did not mention her then-pending felony charges for assault, which Mr. Wright believed showed a lack of transparency.<sup>35</sup> Further, Mr. Wright asserted that Ms. Allred's community supervision being revoked in 2012 and extended in 2021 is concerning because it calls into question her rehabilitation and responsiveness to authority. In addition, he noted that she is on community supervision until 2029, so much of the supervision remains to be satisfied. In summary, Mr. Wright believed that, at this time, Ms. Allred's rehabilitative evidence did not outweigh the severity of her criminal history.

Additionally, Mr. Wright testified that, given Ms. Allred's criminal history, her responses of "no" to the questions regarding misdemeanors and felonies on her application for a permanent license were not truthful. He said the failure to disclose criminal history is a "major concern" because it indicates an applicant may not be forthright or may intend to deceive the Department. Mr. Wright stated that Ms. Allred's failure to disclose her criminal history is a further basis for denying her application.

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<sup>35</sup> See Staff Ex. 7A at 140-41.

**D. Testimony of Ms. Allred**

Ms. Allred testified that she has been in the insurance industry since she was 18 years old and has never had a conflict with an employee, client, or anyone at work. She stated that the 2011 assault and DWI charges occurred when she was young and did not have much guidance because her parents were mostly absent. Ms. Allred said she essentially raised herself and admitted she had made mistakes. After the initial charges, Ms. Allred said she went a long time without getting in trouble, but when she was 26 years old, she began interacting with her mother, who introduced Ms. Allred to an unhealthy lifestyle that included heroin, and ultimately resulted in the 2019 drug possession charge. Ms. Allred noted that, as part of her probation for the possession charge, she completed a six-month rehabilitation program and anger management.<sup>36</sup> Ms. Allred recognized that the three recent charges for aggravated assault with a deadly weapon were “very, very severe.” However, Ms. Allred emphasized that she did not assault three people, but instead was charged with three assaults because three people were in the vehicle she had the altercation with.

Ms. Allred acknowledged that she remains on community supervision for the possession charge and the three aggravated assault charges, but said she is on track to complete community supervision for the possession charge on March 8, 2022. She stated that she has also completed all of the classes required for her eight-year probation for the aggravated assault charges and she expects to have an opportunity to come off probation early in two or four years. In response to the Department’s concerns about her ability to meet the terms of probation, she said that, at this stage of her life, she understands what it means to comply and has had no issues on her current probations.

As to the representations on her permanent license application regarding her criminal history, Ms. Allred explained that, because she had never filled out the application before, an office manager filled it out while Ms. Allred was present. Ms. Allred said that, at the time, she did not understand the terms “deferred” and “adjudication,” and thought that “charged” meant the same as “convicted.” As a result, she did not know that she needed to report a deferred adjudication or

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<sup>36</sup> See Staff Ex. 7A at 146-47.

pending cases. Finally, as to the most recent charges, Ms. Allred did not disclose them because she had not been indicted at the time she completed the application and did not know if she would be charged. On cross-examination, Ms. Allred acknowledged that she had submitted a personal statement to the Department regarding her criminal history in December 2020, after she had been charged for the aggravated assaults, but did not address those charges because she had not been convicted.

#### **E. Ms. Allred's Letters of Recommendation**

During the application process, Ms. Allred provided three letters of recommendation to the Department as follows:<sup>37</sup>

- Jesse Moore, who was Ms. Allred's direct supervisor at American Insurance Consultants, where she worked as a frontier and appointment setter, praised Ms. Allred's "incredible adaptability," ability to make customers feel comfortable, and effective working relationships with co-workers. He believed she would make a great insurance sales agent.
- Thomas Ferguson has known Ms. Allred, who is his employee, for many years. He described her as a "hard worker," "complete go getter," and "excellent leader." In addition, he said she is honest, enthusiastic, and dedicated. Mr. Ferguson is aware of Ms. Allred's criminal history, but stated it has not been issue with her performing her job duties. He said Ms. Allred "has grown so much and is so ready to make this change and better her life as well as others."
- Wesley Allred, who is Ms. Allred's father, stated that his daughter is a great person who had a hard life growing up. He noted that she has taken responsibility for herself, has made decisions in the last couple years to better herself, and has come a long way. He described her as "very loyal and trustworthy." He said she is passionate about what she is pursuing and ready to learn when needed.

### **IV. ANALYSIS AND RECOMMENDATION**

Staff contends that Ms. Allred's criminal history shows that she lacks the honesty and trustworthiness required to hold an insurance agent license. Likewise, Staff contends that her

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<sup>37</sup> Staff Ex. 7A at 112-14.

omissions or misrepresentations in her application and related correspondence indicate a lack of honesty that warrants denial.

#### A. Criminal History as Grounds for Denial

There is no dispute regarding Ms. Allred's criminal history set forth above. Because Ms. Allred has not yet completed the deferred adjudications for the 2019 drug possession charge and three 2021 aggravated assault charges, the Department may consider her to have been convicted of those offenses if it determines, after considering the factors in Texas Occupations Code §§ 53.022 and 53.023(a), that she may pose a continued threat to public safety or that her employment as a licensed insurance agent would create an opportunity to repeat the prohibited conduct.<sup>38</sup>

The Department has already considered the factors in Texas Occupations Code § 53.022 in determining that felony assault offenses, such as Ms. Allred's three 2021 aggravated assault charges, are among those offenses so serious that they are of prime importance in determining fitness for licensure.<sup>39</sup> The Department considers crimes of prime importance to be directly related to the duties and responsibilities of the licensed occupation.<sup>40</sup> The 2019 drug possession charge is also serious, as it is a felony; however, the Department did not show that it was a crime directly related to the duties and responsibilities of the licensed occupation.

Turning to the factors in Texas Occupations Code § 53.023(a), the evidence shows that Ms. Allred has seven criminal offenses, which range in severity from misdemeanors to felonies and were committed when she was ages 19 to 28. Given that her most recent offenses were committed when she was ages 26 and 28, they cannot be discounted as youthful indiscretions. In addition, little time has elapsed since Ms. Allred's three aggravated assault charges, which are among the most serious on Ms. Allred's record, and as stated above, qualify as crimes of prime importance when determining fitness for licensure. However, mitigating these factors are

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<sup>38</sup> Tex. Occ. Code § 53.021(d)(1)(B)(i), (2).

<sup>39</sup> 28 Tex. Admin. Code § 1.502(e)(4)(B).

<sup>40</sup> 28 Tex. Admin. Code § 1.502(e); *see also* Tex. Occ. Code § 53.025.

Ms. Allred's steady work history both before and after the criminal offenses,<sup>41</sup> her compliance with the terms of her most recent community supervision, and the three letters of recommendation she provided, which speak very highly of her work ethic and character.

After weighing all of the factors, the ALJ concludes that the preponderance of the evidence did not show that the deferred adjudication for the 2019 drug possession charge should be considered a conviction. As to this offense, the Department did not explain how Ms. Allred may pose a continued threat to the public or how a license would present an opportunity to reoffend. Ms. Allred provided evidence that she has completed a drug treatment program and has complied with the requirements of her community supervision that she remain drug and alcohol free.

However, the ALJ concludes that the Department may consider Ms. Allred's deferred adjudications for the three 2021 aggravated assaults to be convictions for licensing purposes. While Ms. Allred is taking commendable steps to maintain steady employment and comply with the terms of her community supervision, the preponderance of the evidence showed that Ms. Allred may pose a continued threat to public safety given the severity and recentness of the three aggravated assault charges. In addition, while Ms. Allred noted that the incident that led to those charges did not occur at work, her actions show poor decision making and a lack of self-control. As Mr. Wright testified, insurance agents must interact with the public, which can sometimes be contentious. As a result, a license would present an opportunity for Ms. Allred to repeat the prohibited conduct.

Because the deferred adjudications for the three aggravated assault offenses may be considered convictions and were felonies, the Department is authorized to deny Ms. Allred's application for a license.<sup>42</sup> However, before denying a license on the basis of a person's criminal history, the Department will first consider whether the factors specified in Texas Occupations Code §§ 53.022 and 53.023 outweigh the serious nature of the conduct when viewed in light of the occupation being licensed.<sup>43</sup> These factors are the same that were considered above when evaluating Ms. Allred's 2019 and 2021 offenses. When considering the entirety of Ms. Allred's

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<sup>41</sup> Staff Ex. 7A at 111.

<sup>42</sup> Tex. Ins. Code § 4005.101(b)(8); 28 Tex. Admin. Code § 1.502(d).

<sup>43</sup> 28 Tex. Admin. Code § 1.502(g)-(h).

criminal history, the ALJ gives less weight to the earliest offenses due to Ms. Allred's youth at the time. However, as discussed above, Ms. Allred's 2021 offenses are both recent and serious, and are given significant weight as crimes of prime importance. While Ms. Allred appears to be making significant strides toward rehabilitation, the ALJ finds that insufficient time has passed to demonstrate that she is reformed. Accordingly, the ALJ concludes that the mitigating factors do not outweigh the seriousness of the criminal offenses, and Ms. Allred has not shown her fitness for licensure.

### **B. Misrepresentation on License Application as Grounds for Denial**

Staff also contends Ms. Allred's application should be denied because she intentionally made a material misstatement in the license application, attempted to obtain a license by fraud or misrepresentation, and engaged in fraudulent or dishonest acts or practices.<sup>44</sup>

Ms. Allred answered "no" when the application asked about any history of misdemeanors or felonies. For each type of criminal offense, the questions specifically asked whether she had been convicted, had a judgment deferred, or was currently charged with committing such a crime. Because Ms. Allred had been convicted of misdemeanors in 2011 and 2012, her response to the misdemeanor question was untruthful. Additionally, because she had a judgment deferred for the 2019 felony drug possession, her response to the felony question was also untruthful.<sup>45</sup> Her failure to disclose these criminal offenses was a material misstatement on the application. At the hearing, Ms. Allred asserted that her failure to respond truthfully was not intentional because she did not understand the words used in the questions. However, her confusion regarding deferred adjudications and pending charges does not explain her failure to disclose the misdemeanors, which were clearly convictions and no longer pending. In addition, she remained on community supervision for the 2019 drug possession charge when she submitted the application, and her failure to look more closely at whether it needed to be disclosed indicates a lack of transparency.

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<sup>44</sup> See Tex. Ins. Code § 4005.101(b)(2)-(3), (5).

<sup>45</sup> Because Ms. Allred's response was clearly untruthful as to the 2019 felony, the ALJ does not separately address whether it was untruthful based on the 2021 aggravated assault charges for which she had not yet been indicted at the time she filed her application.

Accordingly, the ALJ finds that the preponderance of the evidence showed that Ms. Allred intentionally made a material misstatement in the license application, attempted to obtain a license by fraud or misrepresentation, and engaged in fraudulent or dishonest acts or practices, which are additional grounds for the denial of a license.

### C. Recommendation

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

## V. FINDINGS OF FACT

1. On November 22, 2011, Lesley Leanna Allred was convicted of the misdemeanor offense of Assault Bodily Injury in Cause No. 1236010 in [REDACTED], Tarrant County, Texas. Ms. Allred was sentenced to 180 days' confinement, which was suspended for 24 months of community supervision.
2. Also on November 22, 2011, Ms. Allred was convicted of the misdemeanor offense of Driving While Intoxicated in Cause No. 1236013 in [REDACTED], Tarrant County, Texas. The court sentenced Ms. Allred to 180 days' confinement, which was suspended for 24 months of community supervision, and ordered her to pay a \$750 fine.
3. On October 3, 2012, the court revoked Ms. Allred's community supervision in Cause Nos. 1236010 and 1236013 due to probation violations and sentenced her to 30 days' confinement.
4. Also on October 3, 2012, Ms. Allred was convicted of the misdemeanor offense of Resisting Arrest/Search/Transportation in Cause No. 1283242 in [REDACTED] Tarrant County, Texas. Ms. Allred was sentenced to 30 days' confinement and ordered to pay a \$100 fine.
5. On March 8, 2019, Ms. Allred received deferred adjudication for the state jail felony offense of Possession of a Controlled Substance of Less Than One Gram, Namely Heroin, in Cause No. 1563381D in the [REDACTED], Tarrant County, Texas. The court placed Ms. Allred on community supervision for two years and ordered her to pay a \$200 fine and court costs.
6. On May 12, 2021, the court extended Ms. Allred's community supervision in Cause No. 1563381D for a period of one year.



7. Also on May 12, 2021, Ms. Allred received deferred adjudication for three felony offenses of Aggravated Assault with a Deadly Weapon, To Wit: A Motor Vehicle, in Cause Nos. 1649149D, 1649151D, and 1649152D in the [REDACTED], Tarrant County, Texas. The court placed Ms. Allred on community supervision for eight years and ordered her to pay an \$800 fine and court costs.
8. Ms. Allred remained on community supervision for the 2019 drug possession charge and three 2021 aggravated assault charges as of the date of the hearing in this case.
9. Ms. Allred may pose a continued threat to public safety given the severity and recentness of the three aggravated assault charges.
10. Because insurance agents interact with the public in sometimes contentious circumstances, licensure as a general lines agent would provide Ms. Allred the opportunity to reoffend.
11. Ms. Allred's criminal offenses were committed when she was ages 19 to 28. Given that her most recent offenses were committed when she was ages 26 and 28, they were not youthful indiscretions.
12. Little time has elapsed since Ms. Allred's three aggravated assault charges, which are among the most serious on Ms. Allred's record and qualify as crimes of prime importance when determining fitness for licensure.
13. Ms. Allred has had a steady work history both before and after her criminal offenses.
14. As of the date of the hearing, Ms. Allred had complied with the terms of her most recent community supervision. As part of her probation for the 2019 drug possession charge, she completed a six-month rehabilitation program and anger management classes.
15. Ms. Allred provided three letters of recommendation that spoke very highly of her work ethic and character.
16. On October 7, 2020, Ms. Allred applied to the Texas Department of Insurance (Department) for a general lines agent license with a life, accident, and health qualification.
17. The application asked, "Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?" and "Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?" In response, Ms. Allred untruthfully answered "no" to both questions.
18. On June 18, 2021, the staff (Staff) of the Department proposed to deny Ms. Allred's application for a general lines agent license based on her criminal history and misrepresentation on the application.
19. On July 1, 2021, Ms. Allred requested a hearing to challenge the denial.

20. On October 26, 2021, Staff issued a second amended notice of hearing on the denial of Ms. Allred's application.
21. The second amended 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 incorporates by reference the factual matters asserted in the complaint or petition filed with the state agency.
22. The hearing was held via Zoom videoconference on December 7, 2021, before Administrative Law Judge Cassandra Quinn of the State Office of Administrative Hearings (SOAH). Attorney Sarah White represented Staff. Ms. Allred appeared and represented herself. The hearing concluded that day, and the record closed on December 22, 2021, when the court reporter's transcript was filed with SOAH.

## VI. CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter. Tex. Ins. Code §§ 4001.002, .105, 4005.101.
2. SOAH has authority to hear this matter and issue a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; Tex. Ins. Code § 4005.104.
3. Ms. Allred 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. Allred's license application, while Ms. Allred had the burden to prove her fitness to be licensed despite the criminal history or fraudulent or dishonest conduct. The standard of proof is by a preponderance of the evidence. 1 Tex. Admin. Code § 155.427; *Granek v. Tex. St. Bd. of Med. Examn'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).
5. 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 a felony offense of assault. 28 Tex. Admin. Code § 1.502(e)(4)(B).
6. The Department may consider Ms. Allred's deferred adjudications for the three 2021 aggravated assaults to be convictions for purposes of making a licensing determination. Tex. Occ. Code § 53.021(d); *see also* Tex. Occ. Code §§ 53.022-.023.
7. The Department may deny Ms. Allred's license application because she is considered to have been convicted of a felony. Tex. Ins. Code § 4005.101(b)(8); 28 Tex. Admin. Code § 1.502(d).

8. The Department may deny Ms. Allred's license application because she is considered to have been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation. Tex. Occ. Code § 53.021(a)(1).
9. The Department may deny Ms. Allred's license application because she intentionally made a material misstatement in the license application, attempted to obtain a license by fraud or misrepresentation, and engaged in fraudulent or dishonest acts or practices. Tex. Ins. Code § 4005.101(b)(2)-(3), (5).
10. The Department will consider the factors listed in Texas Occupations Code §§ 53.022 and 53.023 in determining whether to issue a license to an applicant despite a criminal offense or fraudulent or dishonest conduct, and will not issue a license unless the mitigating factors outweigh the serious nature of the criminal offense or fraudulent or dishonest conduct when viewed in the light of the occupation being licensed. 28 Tex. Admin. Code § 1.502(g)-(h).
11. The mitigating factors do not outweigh the seriousness of Ms. Allred's criminal offenses and her fraudulent or dishonest conduct, and she has not shown her fitness for licensure. Tex. Occ. Code §§ 53.022-.023; 28 Tex. Admin. Code § 1.502(g)-(h).
12. The Department should deny Ms. Allred's application for a license.

**SIGNED February 18, 2022.**

  
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**CASSANDRA QUINN**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

# Exhibit B



## State Office of Administrative Hearings

Kristofer S. Monson  
Chief Administrative Law Judge

March 30, 2022

Cassie Brown  
Commissioner of Insurance  
Texas Department of Insurance  
333 Guadalupe, Tower 1, 13<sup>th</sup> Floor, Mail Code 113-2A  
Austin, Texas 78714

**VIA E-FILE TEXAS**

**RE: Docket No. 454-22-0142.C; Texas Department of Insurance v. Lesley Leanna Allred**

Dear Commissioner Brown:

Please be advised that the time period to file exceptions to the Proposal for Decision (PFD) issued in the above-referenced case has expired and neither party filed exceptions. *See* 1 Tex. Admin. Code § 155.507(b). Although no exceptions were filed, the Administrative Law Judge (ALJ) is aware that recent Texas Department of Insurance (TDI) orders have concluded that deferred adjudications may be treated as convictions when analyzing criminal history under Texas Occupations Code § 53.021(a), but not under Texas Insurance Code § 4005.101(b)(8).<sup>1</sup> This precedent would impact the PFD in the instant case, specifically at page 12 and Conclusion of Law Nos. 6 and 7, but would not change the overall recommendation.

Because SOAH has concluded its involvement in this matter, the case is remanded to TDI. *See* Tex. Gov't Code § 2003.051(a).

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<sup>1</sup> *See, e.g., Texas Department of Insurance v. Tejani*, SOAH Docket No. 454-21-0686.C, TDI Enforcement File No. 16613, Commissioner's Order No. 2022-7155 (Jan. 5, 2022).



# State Office of Administrative Hearings

Kristofer S. Monson  
Chief Administrative Law Judge

Sincerely,

Cassandra Quinn  
Administrative Law Judge

CQ/nm  
Enclosure

cc: Sarah White, Texas Department of Insurance, 333 Guadalupe, Tower 1, 13<sup>th</sup> Floor, Austin, Texas 78701  
- **VIA E-FILE TEXAS**  
Chief Clerk, Texas Department of Insurance, 333 Guadalupe, Tower I, Suite 1300D, Austin, Texas 78701  
- **VIA E-FILE TEXAS**  
Lesley Leanna Allred, [REDACTED], Fort Worth, TX 76120 - **VIA E-FILE TEXAS**  
Lesley Leanna Allred, [REDACTED] Crowley, TX 76036 - **VIA E-FILE TEXAS**