

## Opinion No. 56-6348

January 9, 1956

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Dr. J. J. Clarke, Secretary, New Mexico Board of Dental Examiners, Artesia, New Mexico

You have presented for our opinion the question: May the Board of Dental Examiners accept the application for examination of a person who has been convicted of a felony?

Section 67-4-22, N.M.S.A., 1953, provides:

"Any person of good moral character, over eighteen (18) years of age who is a citizen of the United States, a graduate of an accredited high school, who has successfully completed training in a school of dental hygiene that is recognized by the board and that requires a course of training of not less than two (2) years of eight (8) months each."

The above section is your standard for determining eligibility of those seeking to take your examination. It is noticed that "any person of good moral character" who otherwise meets the requirements may apply and take your examination. Thus it is for you to determine whether or not a particular applicant is possessed of good moral character.

It may also be noted that Section 67-4-28 (2), N.M.S.A., 1953, empowers the Board to suspend or revoke a license where the holder has been convicted of a felony or any offense involving moral turpitude. Impliedly then, by virtue of the two sections, you have the discretion to refuse an application for examination where the applicant has been convicted of a felony. But although you have that power, we do not believe that it can be categorically stated that in all cases the application should be refused. Certainly the conviction for a felony has a bearing upon the question as to whether or not an applicant is of good moral character. And it may be that great weight should be given this factor in arriving at that determination. However, the type of felony and other attendant circumstances may be examined by you to determine the weight to be given the conviction in arriving at the question of good moral character. Also the period of time elapsing between the felony and the time of application and the applicant's conduct during this time are factors which may be considered by you. Certainly the conviction of the felony does not, in all cases, stamp the individual as one who for all time will be possessed of something less than good moral character. As a rule of thumb it may be suggested that the conviction of a felony can, in most cases, be taken as evidence of bad moral character, but we do not rule that a previous conviction will in all cases be a positive indication of bad moral character at the time of application.

We trust that this is of some aid to you.

By: Santiago E. Campos

Assistant Attorney General