

## Appendix A

### **Criminal Background Check Mandatory Exclusions for Specified Time Periods**

**In order to be granted clinical privileges at any of the covered facilities, 15 years must have lapsed since the individual completed all the terms and conditions of sentencing, parole and probation for conviction of the following offenses:**

Felony that involves the intent to cause death or serious impairment of a bodily function, that result in death or serious impairment of the bodily function that involves the use of force or violence or that involves the threat or the use of force or violence. This includes:

- Homicide
- Assault and infliction of serious injury
- Assault with intent to commit murder
- Assault with intent to do great bodily harm less than murder
- Assault with intent to maim
- Attempt to murder

Felony involving cruelty or torture.

Felony of crime committed against “vulnerable adults” who because of age, developmental disability, mental illness or physical disability, require supervision or personal care or lack the personal and social skills required to live independently.

Felony involving criminal sexual conduct.

Felony involving abuse or neglect generally related to vulnerable adults or children which typically results in serious physical or mental harm to the vulnerable adult.

Felony involving the use of a firearm or dangerous weapon.

Felony involving the diversion or adulteration of a prescription drug or other medications.

**In order to be granted clinical privileges at any of the covered facilities, 10 years must have lapsed since the individual completed all the terms and conditions of sentencing, parole and probation for conviction of the following offenses:**

Misdemeanor involving the use of a firearm or dangerous weapon with the intent to injure, the use of a firearm or dangerous weapon that results in a personal injury, or a misdemeanor involving the use of force or violence or the threat of the use of force or violence.

Misdemeanor crime committed against “vulnerable adults”.

Misdemeanor involving criminal sexual conduct which involve instances of sexual contact with another person that does not involve sexual penetration and are typically known as “fourth degree criminal sexual conduct”.

Misdemeanor involving cruelty or torture (usually first conviction regarding animals).

Misdemeanor involving abuse or neglect in the third or fourth degree if the caregiver intentionally or recklessly causes “physical harm” to a vulnerable adult.

Third Driving Under the Influence (DUI) conviction.

**In order to be granted clinical privileges at any of the covered facilities, 5 years must have lapsed since the individual completed all the terms and conditions of sentencing, parole and probation for conviction of the following offenses:**

Misdemeanor involving cruelty if committed by an individual who is less than 16 years of age including cruel treatment of animals.

Misdemeanor involving home invasion that typically is described as “breaking and entering” into another person’s home.

Misdemeanor involving embezzlement which is a person who has taken money from another person who had entrusted the money with the wrongdoer, e.g. a store cashier.

Misdemeanor involving negligent homicide which is committed when a person engages in careless or reckless driving that causes death.

Misdemeanor involving larceny which is legally described as the act of stealing but it does not include shoplifting. An example would be theft from a building of an item that is not offered for sale.

Misdemeanor of retail fraud in the second degree which involves shoplifting property from a store that is offered for sale at a price of \$200 or more but less than \$1,000 or less than \$200 if the person has been previously convicted of any crime or theft.

Any other misdemeanor involving assault, fraud, theft, or the possession or delivery of a controlled substance unless otherwise provided for under other subsections.

**In order to be granted clinical privileges at any of the covered facilities, 3 years must have lapsed since the individual completed all the terms and conditions of sentencing, parole and probation for conviction of the following offenses:**

Misdemeanor for assault which is defined as the individual attempting or threatening to hurt another.

Misdemeanor of retail fraud in the third degree which involved shoplifting property from a store that is offered for sale at a price of less than \$200.

Misdemeanor involving the creation, delivery or possession with intent to manufacture or deliver a controlled substance.

**An individual cannot be granted clinical privileges at any of the covered facilities if within the year immediately preceding the date of application for employment or clinical privileges the individual was convicted of the following offenses:**

Misdemeanor involving the creation, delivery or possession with intent to manufacture or deliver a controlled substance if the individual, at the time of conviction, is under the age of 18.

Misdemeanor for larceny or retail fraud in the second or third degree which involved shoplifting property from a store that is offered for sale at a price of less than \$200 if the individual, at the time of conviction, is under the age of 16.

### **Permanent Exclusions:**

If the individual has ever pleaded “not guilty by reason of insanity” and that plea has been entered in the law enforcement information network (LEIN), the individual cannot work in long-term care.

If the individual has ever been the subject of a substantiated finding of neglect, abuse or misappropriation of property by a state or federal agency, the individual cannot work in long term care. For example, an individual would be excluded if their nurse aide certification was “flagged”.

### **Clarifications on Legal Terminology**

#### 1. Criminal Sexual Conduct

**Misdemeanor:** Fourth Degree Criminal Sexual Conduct

**Felony:** First, Second and Third Degree Criminal Sexual Conduct

#### 2. Cruelty and Torture to Animals

**Misdemeanor:** First Offense

**Felony:** More than one offense

#### 3. DUI Convictions

**Misdemeanor:** Does not exclude individual from working in long-term care

**Felony:** Third DUI conviction. This felony requires 10 year exclusionary period between the Student’s discharge from state supervision to the date of the employment application or granting of clinical privileges.