

LIST OF DISQUALIFYING CRIMINAL OFFENSES FOR LONG-TERM CARE EMPLOYEES

200 IMPLEMENTATION

Effective October 1, 1997, Long Term care facilities shall not knowingly employ or hire a person who has been found guilty or has pled guilty or nolo contendere (**regardless of whether the record of the offense is expunged, pardoned, or otherwise sealed**) to any of the offenses listed below by any court in the State of Arkansas or any similar offense by a court in another state or of any similar offense by a Federal Court.

1. Capital murder
2. Murder in the first or second degree
3. Manslaughter
4. Negligent homicide
5. Kidnapping
6. False imprisonment in the first degree or second degree
7. Permanent detention or restraint
8. Robbery
9. Aggravated robbery
10. Battery in the first, second or third degree
11. Aggravated assault, or assault in first, second, or third degree
12. Introduction of controlled substance into body of another person
13. Terroristic threatening in the first or second degree
14. Rape
15. Sexual assault in the first, second, third or fourth degree
16. Sexual indecency with a child
17. Violation of a minor in the first or second degree
18. Incest
19. Domestic Battery (all degrees)
20. Endangering the welfare of incompetent person in the first or second degree
21. Endangering the welfare of a minor in the first or second degree
22. Permitting abuse of a minor
23. Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, or pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, or employing or consenting to the use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child
24. Felony abuse of an endangered or impaired person
25. Theft of property
26. Theft by receiving
27. Arson
28. Burglary
29. Felony violation of the Uniform Controlled Substances Act
30. Prostitution, Patronizing a prostitute, or Promotion of prostitution (all degrees)
31. Stalking

32. Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy, to commit any of the offenses listed in this section.
33. Forgery
34. Breaking or entering
35. Obtaining a controlled substance by fraud
36. Computer child pornography or failure to report computer child pornography
37. Computer exploitation of a child or distributing, possessing, or viewing of matter depicting sexually explicit conduct involving a child

201.1 Except as provided in Section 201.2 below, a conviction for an offense listed in Section 201 shall not disqualify an employee or applicant for employment if:

1. The conviction, or plea of nolo contendere or guilty, was a misdemeanor offense and the date of conviction, or plea of nolo contendere or guilty, of the offense is at least five (5) years from the date of the application for the criminal record check, and the person has no criminal convictions or pleas of guilty or nolo contendere of any type or nature during the five (5) year period preceding the record check; or
2. The conviction, or plea of nolo contendere or guilty, was a felony offense and the date of the conviction, or plea of nolo contendere or guilty, of the offense is at least ten (10) years from the date of the application for the criminal record check, and the person has no criminal convictions or pleas of guilty or nolo contendere of any type or nature during the ten (10) year period preceding the record check.

NOTE: The provisions in 201.1(1) and 201.1(2) shall be applied at the initial criminal record check performed by a service provider. A person who has previously been disqualified by the Office of Long Term Care, and for whom the time for disqualification has passed (five years for misdemeanors or ten years for felonies) may have the disqualification removed by having a new criminal record check conducted.

3. Even if a person would otherwise be disqualified under Section 201, a person shall not be disqualified if the person:
 - a. Was not disqualified on August 31, 2009; and
 - b. Has not been found guilty of or pleaded guilty or nolo contendere to any offense listed in Section 201, a similar offense in another state, or a similar federal offense.

201.2. Because of the serious nature of the offense and close relationship to the type of work that is to be performed, the following offenses by any court in the State of Arkansas or any similar offense by a court of another state or federal court, **(regardless of whether the record of the offense is expunged, pardoned, or otherwise sealed)**, shall result in permanent disqualification of employment:

1. Capital murder
2. Murder in the first or second degree
3. Kidnapping
4. Rape
5. Sexual assault in the first or second degree

6. Endangering the welfare of an incompetent person in the first degree
7. Felony abuse of an endangered or impaired person
8. Arson

201.3 Whenever a criminal record check is performed on a person under the provisions of these regulations, the person will be disqualified for employment, licensure, or any other purpose if it is determined that the person committed a violation of any sexual offense formerly proscribed under Arkansas Code §§ 5-14-101 through 5-14-127 (prior to July 2003) that is substantially equivalent to any sexual offense presently listed in Arkansas Code §§ 5-14-101 through 5-14-127 and is an offense screened for in a criminal record check. These include the criminal offenses listed in these regulations in Section 201 as follows:

14. Carnal abuse in the first degree, second degree and third degree
15. Sexual abuse in the first degree and second degree
16. Sexual solicitation of a child
17. Violation of a minor in the first degree and second degree

203.1 Nursing assistant trainees shall be subject to a criminal record check under the following provisions:

1. Prior to a nursing home placing a person in a facility-based nursing assistant training program or sponsoring a person in a non-facility-based training program, the facility shall conduct a criminal record check on the person. This is based on the requirement that a job offer has been made to the person to be an employee of the facility, an on-call employee of the facility or sponsored through an intent to employ by the nursing home.
2. Nursing assistants who have received training as an independent student and not connected to an employment offer as discussed in #1 above will be subject to a criminal record check at the time an employment offer has been made by any type of long term care facility.

Note: The above requirements do not apply to independent (non-employment status) trainees performing clinical training in a long term care facility. Clinical training does not involve the provision of "care" as that term is defined herein. Trainees, independent of an

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employment connection to a facility, are not required to have a criminal record check. However, nursing assistant trainees who are employed while still in training and used by a facility to provide care are subject to a criminal record check.

204 When a long term care facility determines the need to utilize temporary