



Initial Approval: 09/1994  
Last Approval: 04/2018  
Last Revision: 04/2018  
Next Review: 04/2019  
Owner: Bennie Smith: Chief Information Officer  
Policy Area: Human Resources  
References:

## Criminal History & Exclusions Verification

### Policy:

In accordance with federal and state laws, the hospital requires that a criminal history background check and exclusion check be performed on all staff hired after July 1, 2009.

### Procedure:

#### A. Criminal History:

1. The hospital will verify criminal history of all individuals hired.
2. Each candidate/employee will be required to sign an "Authorization to Disclose Criminal History Records Information" form upon hire or transfer into the Home Health Department.
3. State Regulations (LRS 40:1203) require an employer to request a criminal history and security check on non-licensed persons before the employer makes an offer of employment to such persons who provide nursing care, health-related services, or supportive assistance to any individual. Home health agencies are required to perform criminal history background checks on Certified Nursing Assistants. This includes contract service providers.
4. If the results of a criminal history check reveal that a non-licensed person or any other person who is an employee has been convicted of any of the following offenses, the employer shall immediately terminate the person's employment:
  - a. **Murder** (RS 14:28.1. Solicitation for murder; RS 14:30. First degree murder; RS 14: 30.1. Second degree murder; RS 14: 31. Manslaughter; RS 14: 32.6. First degree feticide; RS 14:32.7. Second degree feticide; or RS 14:32.12. Criminal assistance to suicide)
  - b. **Battery** (RS 14:34. Aggravated battery; RS 14: 34.1. Second degree battery; RS 14:34.7. Aggravated second degree battery; or RS 14:35.2. Simple battery of persons with infirmities)
  - c. **Assault** (RS 14:37. Aggravated assault; RS 14:37.1. Assault by drive-by shooting; RS 14:37.4. Aggravated assault with a firearm; or RS14:38.1. Mingling harmful substances)
  - d. **Rape** (RS 14:42. First degree rape; RS 14:42.1. Second degree rape; RS 14:43. Third degree rape; RS 14:43.1. Sexual battery; RS 14:43.2. Second degree sexual battery; RS 14:43.3. Oral sexual battery; or RS 14:43.5. Intentional exposure to AIDS virus)
  - e. **Kidnapping** (RS 14:44. Aggravated kidnapping; RS 14:44.1. Second degree kidnapping; or RS 14:46.2. Human trafficking)

- f. **Arson** (RS 14:51. Aggravated arson)
  - g. **Burglary** (RS 14: 60. Aggravated burglary; RS 14:64. Armed robbery; RS 14:64.1. First degree robbery; or RS 14:64.4. Second degree robbery)
  - h. **Extortion** (RS 14: 66. Extortion)
  - i. **Offenses affecting sexual morality** (RS 14:89. Crime against nature; or RS 14:89.1. Aggravated crime against nature)
  - j. **Cruelty to persons with infirmities** (RS 14:93.3. Cruelty to persons with infirmities; RS 14:93.4. Exploitation of persons with infirmities; or RS 14:93.5. Sexual battery of persons with infirmities)
  - k. **Distribution or possession of controlled dangerous substances** or distribution or possession with the intent to distribute controlled dangerous substances as listed in Schedules I through V of the Uniform Controlled Dangerous Substances Act.
5. Offenses also include certain crimes relative to children for persons who provide services to children. An attempt or conspiracy to commit any of the felony offenses involving:
    - a. R.S. 14:67. Theft or theft of assets of an aged person or person with a disability
    - b. RS 14:44.2. Aggravated kidnapping of a child
    - c. RS 14:80. Felony carnal knowledge of a juvenile
    - d. RS 14:81.2. Molestation of a juvenile or a person with a physical or mental disability
    - e. RS 14:93. Cruelty to juveniles
  6. The hospital will verify with the Louisiana State Nurses Aide Registry all Nursing Assistants throughout the hospital and satellite facilities. If a finding of abuse, neglect, or mistreatment of residents/patients or misappropriation of property is identified, the hospital will immediately terminate the individual's employment.
  7. If the criminal history verification indicates that the individual has been convicted of any of the offenses listed, the hospital and/or Home Health Department will immediately terminate the individual's employment. Furthermore, if the individual is the subject of a pending charge or pleads "nolo contendere" (no contest) to any of the prohibited activities, his or her employment will be immediately terminated. In accordance with Federal Regulations [42 CFR 483.13 (1) (ii)], Home Health agencies are prohibited from "employing individuals who have been convicted of abusing, neglecting, or mistreating residents or patients in a health care related setting."
  8. Lady of the Sea General Hospital will conditionally hire an applicant prior to obtaining the results of a criminal record check.
  9. The Human Resources Department will check through the Louisiana State Police (or an approved designee) the criminal records of all new hires, once conditionally offered employment.
  10. Lady of the Sea General Hospital determines through a record check that an applicant was previously convicted of, or pled guilty to a felony or other serious offense, then the Hospital shall remove such applicant from consideration for the available hospital job position.
  11. Similarly, should Lady of the Sea General Hospital learn during its review of an applicant's qualifications that the applicant otherwise failed to follow ethical or compliance standards of a prior employer, the Hospital might refuse to hire the applicant as an employee.
  12. Lady of the Sea General Hospital shall terminate such conditional employment upon receiving results

of a criminal record check, which indicate that the applicant previously was convicted of or pled guilty to a felony or other serious offense.

13. Lady of the Sea General Hospital shall perform such additional background checks and follow any additional hiring procedures regarding applicants for particular job positions as may be required by law.

B. Exclusion:

1. An exclusion is a serious administrative sanction imposed on a person or entity after being provided with due process and the opportunity to a fair hearing on a related criminal or civil conviction involving:
  - a. crimes against the patient or elderly
  - b. crimes involving substance abuse
  - c. crimes involving fraud
2. A person or entity can be excluded for related misdemeanors or a revoked professional health care license or even being in default of a federal student loan
3. The Human Resources Department will search for exclusions on every new hire at the time of hire and on every employee, Medical Staff/Allied Health member, and contract staff and entity on a monthly basis throughout the employment, membership, or contract relationship through the two federal databases and various state Medicaid exclusion databases.
  - a. OIG List of Excluded Individuals and Entities (LEIE) at <http://exclusions.oig.hhs.gov/>
  - b. Systems Awards Management (SAM) at [www.sam.gov](http://www.sam.gov)
  - c. State Medicaid Exclusion Registries.
  - d. Direct Service Workers (DSW) at <http://www.dhh.louisiana.gov/index.cfm/directory/detail/713/catid/154>.
4. Lady of the Sea must check the social security number of every unlicensed DSW on this Registry at the time of hire and every six (6) months for the duration of the DSW's employment.
5. Lady of the Sea General Hospital shall terminate such employment/end contract/remove contract worker upon receiving results of an exclusion and must notify the Department of Health and Hospitals (DHH, Program Integrity, P.O. Box 91030, Baton Rouge, LA 70821-9030) within ten (10) working days of discovering the exclusion with the following information:
  - a. Name of the excluded individual or entity
  - b. Status of the individual or entity (applicant or employee/contractor)
  - c. Beginning and ending dates of individual's or entity's employment/contract
  - d. Documentation of termination of employment or contract
  - e. Type of service(s) provided by the excluded individual or entity

**Attachments:**

No Attachments

## Approval Signatures

---

Approver	Date
Bennie Smith: Chief Information Officer	04/2018

## Applicability

---

Lady of the Sea General Hospital