*TEMPLATE*

**Criminal Records Check Policy**

{INSERT AGENCY NAME}

It is {INSERT AGENCY NAME}’s stated and enforced policy to ensure strict adherence to every rule, regulation, and statute that governs our business in Ohio. This is particularly true of the rules and regulations that surround criminal records checks. Below is the procedure our business follows with respect to all criminal records checks.

**Step 1: State and National Database Review**

Prior to conducting a criminal records check, the chief administrator or his or her designee of our agency will conduct, with respect to each applicant for a position involving the provision of direct care and each current employee who provides direct care, a check of the following databases:

(1) The "System for Award Management," available at http://www.sam.gov/;

(2) The list of excluded individuals and entities maintained by the Office of Inspector General in the United States Dept. of Health and Human Services, available at

http://exclusions.oig.hhs.gov/;

(3) The registry of employees guilty of abuse, neglect, or misappropriation maintained by the Ohio Department of Developmental Disabilities, available at

https://its.prodapps.dodd.ohio.gov/ABR\_Default.aspx;

(4) The sex offender and child-victim database maintained by the Ohio Attorney General, available at http://www.icrimewatch.net/index.php?AgencyID=55149&disc=;

(5) The database of inmates maintained by the Ohio Dept. of Rehabilitation and Correction, available at https://appgateway.drc.ohio.gov/OffenderSearch; and,

(6) The Ohio Nurse Aide Registry, maintained by the Ohio Department of Health, available at https://odhgateway.odh.ohio.gov/nar/nar\_registry\_search.aspx.

*Note*: If an applicant does not present proof of having been a resident of this state for the five-year period immediately prior to the date of the database review, the chief administrator of our agency shall conduct a database review of the nurse aide registry in the state or states in which the applicant has lived.

**AGENCY PROCEDURE:** *Except as provided for in rule 3701-60-06 of the Ohio Administrative Code, our agency cannot and will not employ a person in a position involving the provision of direct care if a review of the databases listed in paragraphs 1 to 5 above discloses disqualifying information regarding the applicant or employee. Similarly, if a review of the database listed in paragraph 6 above discloses a statement detailing findings by the Director of Health that the applicant or employee neglected or abused a long-term care facility or residential care facility resident or misappropriated property of such a resident, the applicant cannot and will not be employed.*

**AGENCY PROCEDURE:** *If the review of the free databases listed in paragraphs 1 to 6 above discloses disqualifying information about an applicant or employee, our agency will inform the applicant or employee of the disqualifying information.*

NOTE WELL: Our agency is not required to review the free databases listed in paragraphs 1 to 6 above if the applicant or employee was referred to our agency by an employment service that refers applicants to employers to fill full-time, part-time, or temporary positions involving direct care if the employment service provides our agency with the confirmation required by paragraph (I) of rule 3701-60-06 of the Ohio Administrative Code.

**Step 2: Requirements for criminal records check**

The chief administrator of our agency or his or her designee will conduct a criminal records check with respect to each applicant for a direct care position once step one above has been completed.

The criminal background check on employees who provide direct care will be as follows:

(1) For employees hired prior to January 1, 2008, no later than thirty days after the anniversary of the employee's date of hire and at least every five years thereafter; or

(2) For employees hired on or after January 1, 2008, no later than thirty days after the fifth anniversary of the employee's date of hire and at least every five years thereafter.

**AGENCY PROCEDURE:** *If the applicant does not present proof of having been a resident of Ohio for the five-year period immediately prior to the date the criminal records check is requested, our chief administrator shall obtain information from the United States Federal Bureau of Investigation as part of the criminal records check of the applicant.*

The chief administrator of our agency or his or her designee must notify each applicant and employee of the following:

(1) That the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment, or, in the case of an employee, that a criminal records check will be conducted as a condition of continued employment;

(2) If applicable, any fees required; and

(3) Any fees authorized under division (C)(2) of section 109.572 of the Ohio Revised Code that are associated with obtaining fingerprint impressions.

When a criminal records check is completed, the chief administrator of our agency must do all of the following:

(1) Provide each applicant and employee a copy of the form or forms prescribed by division (C)(1) of section 109.572 of the Ohio Revised Code and a standard fingerprint impression sheet, or instructions for acquiring a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section.

(a) An applicant who meets the residency requirement shall be provided a copy of the Bureau of Criminal Identification and Investigation "civilian identification" form for fingerprint impressions; in addition, if the home health agency chooses to do so, the applicant may also be provided an United States Federal Bureau of Investigation "applicant" fingerprint impression form;

(b) An applicant who does not meet the residency requirement, as specified above, shall be provided both the Bureau of Criminal Identification and Investigation and United States Federal Bureau of Investigation fingerprint impression forms.

(2) Obtain the completed form or forms and standard fingerprint impression sheet or sheets from the applicant;

(3) Forward the completed form or forms and standard fingerprint impression sheet or sheets to the Department of Health.

NOTE WELL: If an applicant or employee has been the subject of a criminal records check pursuant to division (D) of section 109.572 of the Ohio Revised Code within the previous twelve months, the chief administrator of our agency may request and accept a reverification of that criminal records check. A reverification of a criminal records check does not relieve our agency of the requirements spelled out in this document if the applicant or employee has not been a resident of this state for the five-year period immediately prior to the date the criminal records check.

NOTE WELL: Our agency is NOT required to conduct a criminal records check of an applicant if the applicant has been referred to our agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care to an individual if all of the following apply:

(1) The chief administrator receives from the employment service confirmation that a review of the databases required by rule 3701-60-03 of the Ohio Administrative Code was conducted with regard to the applicant or employee;

(2) The chief administrator receives from the employment service confirmation that a report of the results of a criminal records check regarding the applicant or employee has been conducted within the one-year period immediately preceding the following:

(a) In the case of an applicant, the date of the applicant's referral by the employment service to our agency;

(b) In the case of an employee, the date by which our agency would otherwise have to request a criminal records check of the employee pursuant to this rule; and

(3) The report of both the database review and the criminal records check demonstrates that the applicant or employee has not been convicted of or pleaded guilty to an offense listed or described in paragraph (A) of rule 3701-60-06 of the Ohio Administrative Code.

**Conditional employment**

Our agency may employ an applicant conditionally prior to obtaining a criminal records check regarding the applicant if the:

(1) Review of the free state and national databases listed above and required by rule 3701-60-05 of the Ohio Administrative Code does not reveal any disqualifying information;

(2) The applicant provides our agency with a completed fingerprint impression sheet before the commencement of the applicant's conditional employment; and

(3) Chief administrator of our agency requests the criminal records check required by rule 3701-60-05 of the Ohio Administrative Code not later than five business days after the applicant begins conditional employment; or

(4) Applicant is referred to the home health agency by an employment service, the employment service or the applicant provides the chief administrator of our agency a letter that is on the letterhead of the employment service, the letter is dated and signed by a supervisor or another designated official of the employment service, and the letter states all of the following:

(a) That the employment service has requested a criminal records check regarding the applicant;

(b) That the requested criminal records check is to include a determination of whether the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense;

(c) That the employment service has not received the results of the criminal records check as of the date set forth on the letter; and

(d) That the employment service promptly will send a copy of the results of the criminal records check to the chief administrator of our agency when the employment service receives the results.

**AGENCY PROCEDURE**: *Our agency cannot and will not employ, conditionally or otherwise, an applicant prior to obtaining the completed form or forms and standard fingerprint impression sheet or sheets from the applicant. For example, an applicant cannot perform or participate in any job-related activity pertaining to a position involving the provision of direct care to an individual that places the applicant in an active pay status if the completed form or forms and standard fingerprint impression sheet or sheets have not been received.*

Conditional employment must be terminated if:

(1) In the case of an applicant for a position providing direct care to an individual, the results of the records check, other than the results of any request for information from the United States federal bureau of investigation, are not obtained within sixty days after the date the request is made; or

(2) The results or any part of the records check indicate that the individual has been convicted of or pleaded guilty to any of the disqualifying offenses listed below.

**Disqualifying offenses**

Except as provided in rule 3701-60-07 of the Ohio Administrative Code, our agency cannot and will not employ or continue to employ a person in a position that involves providing direct care to an individual if the person has been convicted of a violation of any of the following sections of the Ohio Revised Code:

959.13 (cruelty to animals);

959.131 (prohibitions concerning companion animals);

2903.01 (aggravated murder);

2903.02 (murder);

2903.03 (voluntary manslaughter);

2903.04 (involuntary manslaughter);

2903.041 (reckless homicide);

2903.11 (felonious assault);

2903.12 (aggravated assault);

2903.13 (assault);

2903.15 (permitting child abuse);

2903.16 (failing to provide for a functionally impaired person);

2903.21 (aggravated menacing);

2903.211 (menacing by stalking);

2903.22 (menacing);

2903.34 (patient abuse and neglect);

2903.341 (patient endangerment);

2905.01 (kidnapping);

2905.02 (abduction);

2905.04 (child stealing, as it existed before July 1, 1996);

2905.05 (criminal child enticement);

2905.11 (extortion);

2905.12 (coercion);

2905.32 (trafficking in persons);

2905.33 (unlawful conduct with respect to documents);

2907.02 (rape);

2907.03 (sexual battery);

2907.04 (unlawful sexual conduct with a minor, formerly corruption of a minor);

2907.05 (gross sexual imposition);

2907.06 (sexual imposition);

2907.07 (importuning);

2907.08 (voyeurism);

2907.09 (public indecency);

2907.12 (felonious sexual penetration, as it existed before July 1, 1996);

2907.21 (compelling prostitution);

2907.22 (promoting prostitution);

2907.23 (enticement or solicitation to patronize a prostitute; procurement of a prostitute for another);

2907.24 (soliciting after positive HIV test);

2907.25 (prostitution);

2907.31 (disseminating matter harmful to juveniles);2907.32 (pandering obscenity);

2907.32 (pandering obscenity);

2907.321 (pandering obscenity involving a minor);;

2907.322 (pandering sexually oriented matter involving a minor);

2907.323 (illegal use of a minor in nudity-oriented material or performance);

2907.33 (deception to obtain matter harmless to juveniles);

2909.02 (aggravated arson);

2909.03 (arson);

2909.04 (disrupting public services);

2909.22 (soliciting or providing support for act of terrorism);

2909.23 (making terroristic threat);

2909.24 (terrorism);

2911.01 (aggravated robbery);

2911.02 (robbery);

2911.11 (aggravated burglary);

2911.12 (burglary);

2911.13 (breaking and entering);

2913.02 (theft);

2913.03 (unauthorized use of a vehicle);

2913.04 (unauthorized use of property, computer, cable, or telecommunication property);

2913.05 (telecommunications fraud);

2913.11 (passing bad checks);

2913.21 (misuse of credit cards);

2913.31 (forging identification cards);

2913.32 (criminal simulation);

2913.40 (medicaid fraud);

2913.41 (defrauding a rental agency or hostelry);

2913.42 (tampering with records);

2913.43 (securing writings by deception);

2913.44 (impersonating an officer);

2913.441 (unlawful display of law enforcement emblem);

2913.45 (defrauding creditors);

2913.46 (illegal use of SNAP or WIC program benefits);

2913.47 (insurance fraud);

2913.48 (workers' compensation fraud);

2913.49 (identify fraud);

2913.51 (receiving stolen property);

2917.01 (inciting to violence);

2917.02 (aggravated riot);

2917.03 (riot);

2917.31 (inducing panic);

2919.12 (unlawful abortion);

2919.121 (unlawful abortion upon minor);

2919.123 (unlawful distribution of an abortion-inducing drug);

2919.22 (endangering children);

2919.23 (interference with custody);

2919.24 (contributing to unruliness or delinquency of child);

2919.25 (domestic violence);

2921.03 (intimidation);

2921.11 (perjury);

2921.11 (perjury);

2921.13 (falsification - in theft offense- to purchase firearm);

2921.21 (compounding a crime);

2921.24 (disclosure of confidential information);

2921.32 (obstructing justice);

2921.321 (assaulting or harassing a police dog, horse, or service animal);

2921.34 (escape);

2921.35 (aiding escape or resistance to lawful authority);

2921.36 (illegal conveyance of weapons, drugs or other prohibited items onto grounds of detention facility or institution);

2921.51 (impersonation of peace officer);

2923.12 (carrying concealed weapon);

2923.122 (illegal conveyance or possession of deadly weapon or dangerous ordinance in a school safety zone, illegal possession of an object indistinguishable from a firearm in a school safety zone);

2923.123 (illegal conveyance, possession, or control of deadly weapon or ordnance into a courthouse);

2923.13 (having weapons while under disability);

2923.161 (improperly discharging a firearm at or into a habitation or school);

2923.162 (discharge of firearm on or near prohibited premises);

2923.21 (improperly furnishing firearms to minor);

2923.32 (engaging in a pattern of corrupt activity);

2923.42 (participating in criminal gang);

2925.02 (corrupting another with drugs);

2925.03 (trafficking in drugs);

2925.04 (illegal manufacture of drugs or cultivation of marijuana);

2925.041 (illegal assembly or possession of chemicals for the manufacture of drugs);

2925.05 (funding of drug or marijuana trafficking);

2925.06 (illegal administration or distribution of anabolic steroids);

2925.09 (illegal administration, dispensing, distribution, manufacture, possession, selling, or using of any dangerous veterinary drug);

2925.11 (possession of drugs);

2925.13 (permitting drug abuse);

2925.14 (illegal use, possession, dealing, selling, or advertising of drug paraphernalia);

2925.141 (illegal use or possession of marihuana drug paraphernalia);

2925.22 (deception to obtain dangerous drugs);

2925.23 (illegal processing of drug documents);

2925.24 (tampering with drugs);

2925.36 (dispensing drug samples);

2925.55 (unlawful purchase of pseudoephedrine product);

2925.56 (unlawful sale of pseudoephedrine product);

2927.12 (ethnic intimidation);

3716.11 (placing harmful objects in food or confection);

If related to an offense listed above, 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity) are also disqualifying factors that preclude agency employment.

A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described above will also preclude agency employment.