



# TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER

## Operating Policy and Procedure

### **HSC OP: 10.20 Criminal Background Checks for Students, Trainees and Residents**

**PURPOSE:** The purpose of this Health Sciences Center Operating Policy and Procedure (HSC OP) is to ensure understanding, and establish a standardized approach regarding the conduct of student background checks for the respective Schools and training programs of TTUHSC.

**REVIEW:** This HSC OP will be reviewed every year by the respective Deans, the Registrar, General Counsel, and the Office of Graduate Medical Education, with comments and/or recommendations submitted to the Executive Vice President for Academic Affairs by October 1. The recommendations for revision will be presented to the President by November 1 for approval.

### **POLICY/PROCEDURE:**

#### **1. Rationale for Background Checks.**

- a. This policy is designed to provide a safe environment for patients, visitors, faculty, employees and students at TTUHSC and affiliating sites. Criminal background checks (CBCs) allow the university to evaluate whether TTUHSC students are qualified, eligible, and possess the character and fitness to participate in clinical care and/or clinical rotation sites at TTUHSC or participating institutions. This policy applies only to students/residents in clinical training.
- b. Where reference is made to "student/s," the same shall apply to any other trainee in clinical training, including, but not limited to, persons who have been accepted, residents in training, or persons from outside TTUHSC who are involved in clinical training in its facilities and affiliating entities, if applicable. Where reference is made to "School/s," the same shall apply to Graduate Medical Education (GME) programs. Distance education participants may also be subject to the requirement of criminal background checks, depending on individual schools or licensure requirements.
- c. Institutions of higher education in Texas are required, not later than one year before the date that applications for admission are first considered, to publish in their catalogs a description of the factors considered by the institution in making admission decisions, including the requirement of undergoing a criminal background check, and shall make the information available to the public through its handbooks and websites.<sup>1</sup>
- d. TTUHSC is interested in and desires to facilitate the graduation of its students in order that they may become qualified, licensed and possess the character and fitness required of professionals in the healthcare field and hereby implements the requirement that students undergo criminal background checks, unless otherwise directed by TTUHSC administration or the Dean of an individual School. Admission to TTUHSC or receipt of a degree from TTUHSC does not guarantee that a state licensure board will ultimately issue a license to an individual with or without a criminal record. This policy outlines the university's use of student background checks after admission. This policy also applies to existing students who are in the various TTUHSC clinical training programs. "Admission" is that status when the university gives notice to students prior to formal matriculation/ enrollment that they have met all institutional requirements for entry into

<sup>1</sup> Tex. Educ. Code §§ 51.805(d) & 51.842(d).

the respective programs. Students will receive, and be required to sign, a written notice regarding the requirement that they must undergo a background check. See Attachment "A." Background checks on students currently enrolled will be conducted as and when needed or required. A break in enrollment may require that students undergo an additional criminal background check, unless specific facts indicate otherwise, as determined by the Dean or his/her designee.

Implementation of criminal background checks for admission purposes takes effect September 1, 2006.

- e. Some criminal offenses preclude students from participating in patient care. In addition, some professional licensure boards include specific offenses which constitute those crimes for which licensure is prohibited. Thus, students from those respective professional schools are subject to the statutory or regulatory requirements independently imposed by law, or as required by affiliating entities. Felonies and misdemeanors constitute criminal offenses, including, but not limited to, sexual offenses, i.e., registered sex offenders must disclose this information to the university; homicide or murder; abuse of at-risk populations, e.g., children, elderly, prisoners, patients; possession of child pornography; possession of illegal substances with intent to sell; inclusion on a list of excluded individuals or specially designated nationals; and, dishonorable discharge. Students must meet any and all requirements of the training site, which may be more extensive than referenced hereinabove. Inability to participate in patient care or being subject to any other exclusion prescribed by law will preclude the successful completion of the requisite curriculum. As such, affected students will not be eligible for matriculation, continuation in the program, or graduation, if applicable.
- f. Students will be required to consent in writing to undergo a criminal background check, provide a self-disclosure of past criminal activity, if applicable, and authorize the disclosure of that information to TTUHSC administration or the training facility, if applicable. See Attachment "B."  
  
Students may be required to include on the consent and/or authorization form information, including but not limited to, the cities, counties and countries of all known residences; date of birth; all names and aliases ever used; verification of prior employment, reason for separation and eligibility for re-hire; verification of academic credentials, etc.
- g. Students shall timely self-disclose relevant criminal history record information, referenced hereinabove, no later than five (5) business days following the charge of a crime. If self-disclosure reveals a criminal history record, the student will then be the subject of a criminal background check, which may include fingerprinting. The report will be made available to the appropriate Dean or his/her designee. Failure to disclose information which is subsequently found on a background check may result in dismissal or withdrawal of acceptance from the university.
- h. The cost of all background check(s) shall be the responsibility of the students.
- i. Students will undergo background checks after admission. An additional background check may be conducted just prior to any clinical training, during the students' respective licensure processes, or at other times on an as needed basis, to be determined by the Dean or his/her designee, or as otherwise required.
- j. Background checks will have no time limit and may include, but not be limited to, criminal history.
- k. Medical disabilities including psychiatric disorders or treatment for same shall not be the subject of a criminal background check.

## **2. Consequences to the Student**

- a. An adverse response to self-disclosure information or the existence of a criminal record will not constitute an automatic bar to admission or patient care placement. Refusal to complete the self-disclosure or to consent to a background check, or falsification of information regarding the background check will preclude the student from admission, matriculation, continued training, or graduation, if applicable.
- b. If applicable, students will be required to provide appropriate documentation identifying the criminal record including, but not limited to, court records and other relevant documents which will be reviewed to determine educational and professional eligibility, character and fitness. Upon review of the documentation, recommendations will be made to the respective Dean or his/her designee regarding formal admission, matriculation, or continued training, if applicable.
- c. In the event a student is discovered to have a criminal history, pending any challenge to the accuracy of the report, consideration shall be given to the relevance of the conviction; the nature of the training; documented successful rehabilitation as may be required by professional or state licensure boards; and, the length of time that has elapsed since the conviction occurred. Any felony or misdemeanor conviction will be noted for the purpose of evaluating student eligibility, character or fitness for training.
- d. None of the provisions of this policy shall be used as the basis for illegal discrimination or retaliation against any individuals or groups.
- e. Criminal history record information is confidential and shall be protected from disclosure to the greatest extent provided by law.

### **3. Process for Students**

- a. Applications to TTUHSC will be processed and reviewed pursuant to the written policies and practices of the respective Schools or programs. After reviewing the application for eligibility and fitness and determining whether the applicant should be accepted, the School/GME program will send the student/trainee a letter of acceptance along with information to be completed and returned to facilitate conducting a criminal background check.
- b. Depending on each School's admissions requirements, matriculation will be completed only after receipt and review of the consent forms, self-disclosure information, and receipt of the subsequent background check record indicating no criminal history, unless otherwise indicated. Where a record of criminal history exists, each prospective matriculant will be evaluated individually, and recommendations for enrollment or withdrawal/revocation of acceptance/admission will be made by the respective Schools.
- d. Students will be notified promptly by the Dean or his/her designee of the fact that a criminal history record has been identified. Students may also be notified by the entity that conducted the criminal background check.
- e. Existing students will be required to undergo a criminal background check as and when deemed necessary to the same extent as outlined hereinabove by completing a self-disclosure and consent form (see Attachment B) and providing any required supporting documentation.
- f. Where a record of criminal history exists for an enrolled student, excepting those students outlined in 3.b. above, each student will be evaluated individually, and recommendations will be made regarding continuation in the program or graduation, if applicable.

### **4. Requirements**

- a. The admissions office of each respective School shall obtain properly completed consent

forms and self-disclosure information necessary for screening students and shall in a timely manner provide such forms to the TTUHSC Office of the Registrar or GME program for submission to the external vendor for processing. TTUHSC will designate the company(ies)/vendor(s) approved to conduct the criminal background check.

- b. All criminal history record information pertaining to students shall be privileged and confidential, and shall not be released or otherwise disclosed to any person or agency, other than (1) individuals involved in TTUHSC admissions; (2) persons who have a legitimate, TTUHSC business-related need to know, as determined by the Dean; (3) upon direction of a court order; (4) any affiliated entity providing training; or, (5) with the written consent of the student made the subject of the criminal background check.
- c. Release of privileged and confidential information by TTUHSC personnel, other than described above, shall be subject to, or may result in, disciplinary action as defined in HSC OP 70.31, "Standards of Conduct, Discipline and Separation of Employees," HSC OP 10.05, "Information Privacy and Confidentiality Statements," Housestaff Policies and Procedures, or Regents' Rule 04.03, "Tenure – TTUHSC." The unauthorized use of criminal history record information is punishable as a misdemeanor or felony under Texas law, depending on the use.<sup>2</sup>
- d. Criminal history record information shall be maintained by the Office of the Registrar or Office of Graduate Medical Education separate from the students' regular education/training records and treated as confidential.
- e. Each School will establish criteria for determining eligibility where a criminal background exists. If criminal history record information does exist regarding an accepted student who has not yet matriculated or a resident who has not yet begun training, and it has been determined that the student/resident is not eligible for enrollment, the student/resident shall be notified by the respective Dean, or his/her designee. The information will be retained until such time that an appeal, if any, has concluded. Thereafter, such information, wherever located, will be immediately destroyed in accordance with the Fair and Accurate Credit Transaction Act.<sup>3</sup>
- f. Criminal history record information regarding students who are already enrolled will be maintained until such time that eligibility, character and fitness for participating in clinical training have been determined. The criminal history record will be destroyed immediately upon the School's determination regarding continued participation in the various TTUHSC programs; until such time an appeal has ended, if any, whichever is the greater length of time; or, the information has been used for the purpose intended.

## 5. Responsibilities

- a. **The Office of Registrar/Office of Graduate Medical Education is responsible for:**
  - (1) Establishing and collecting fees necessary to conduct criminal background checks.
  - (2) Providing Schools access to the forms for use in screening for criminal history information.
  - (3) Receiving Consents for Criminal Background Checks and Self-Disclosure information.
  - (4) Serving as the liaison with the vendor conducting the criminal background checks.
  - (5) Coordinating background checks with the institution's vendor to determine if

<sup>2</sup> Tex. Gov't Code, §411.085.

<sup>3</sup> FACTA, C.F.R. Section 682.1 *et seq.*

criminal history record information exists regarding students participating in clinical programs.

- (6) Receiving results of criminal history record information checks from vendors and using appropriate safeguards to ensure confidentiality.
- (7) Maintaining as confidential all information related to criminal history record information; providing certification of the criminal history record information to the respective Schools within five (5) days, if possible; and, disclosing specific information only to the person(s) who must act on the information.
- (8) Receiving written verification from the respective Deans that criminal history record information has been used for its intended purpose and destroyed.<sup>4</sup>
- (9) Destroying the criminal history record information in the Office of the Registrar/Office of Graduate Medical Education once used by the respective Schools for the intended purpose.

**b. The Dean of each respective School, or his/her designee, is responsible for:**

- (1) Providing the Office of the Registrar/Office of Graduate Medical Education with properly completed Consent forms and Self-Disclosure information forms authorizing that a criminal background check be conducted for those students who have been admitted to the respective Schools. The consent form also authorizes release of criminal background information to affiliated clinical sites as required
- (2) Indicating in all notices to applicants that matriculation/training is contingent on the evaluation and acceptable outcome of the criminal background screening, unless otherwise indicated.
- (3) Determining whether students who have been accepted and who disclose criminal history record information will be matriculated or enrolled without conditions.
- (4) Issuing formal admission notice to students who have been accepted when criminal history record information is not found. When criminal history record information is identified, the Office of the Registrar/Office of Graduate Medical Education will relate the existence of criminal history record information to the Dean of the School, or his/her designee, who will then consider the relevance of the information as it relates to students.
- (5) Ensuring that all records of conviction are removed from students' records if, on further review, notification is received that the conviction record has been expunged.
- (6) Informing students that criminal history record information was found which was not included in their self-disclosure; offering students information regarding their right to challenge the accuracy of the information provided by the criminal background check vendor; and, notifying students that a TTUHSC ad hoc appeal procedure will be provided by each School or the Office of Graduate Medical Education if matriculation/training is denied or students are dismissed as a result of the criminal background history information results.
- (7) Notifying students of action taken regarding matriculation, withdrawal of acceptance, or dismissal where criminal history record information is found.
- (8) Verifying in writing to the Office of the Registrar/Office of Graduate Medical Education that criminal history record information has been used for the intended

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<sup>4</sup> *Id.*

purpose and has been destroyed by the School.<sup>5</sup>

- (9) Notifying the various sites, or TTUHSC administration, that the student may be ineligible for training or is precluded from progressing in his/her educational activities; or, if TTUHSC determines the existence of such criminal history record information does not preclude the student from participation, the information may be reviewed by the affiliated training site to determine eligibility for its facility, so long as written consent is provided by the student.
- (10) Receiving from the professional licensure board, where applicable, a written declaratory order certifying the applicant/student as eligible for training when a criminal history exists. It shall be the responsibility of the affected student to petition his/her respective board, where applicable, to obtain the declaratory order and request that the order be forwarded to the School to establish eligibility, character and fitness for TTUHSC programs when a record of criminal history exists.

## **6. Amending Policy**

TTUHSC reserves the right to interpret, change, modify, amend or rescind any policy in whole or in part.

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<sup>5</sup> *Id.*