

Central New Mexico Community College (CNM)
School of Business & Information Technology (BIT)
Health Information Technology (HIT) and Medical Coding Programs

Student Caregiver Criminal History Screening Policy

I. Purpose and Rationale.

Central New Mexico Community College and the New Mexico's Department of Health (DOH) are committed to zero tolerance of abuse, neglect and exploitation of individuals receiving health care.

The New Mexico Caregivers Criminal History Screening Act (CCHS) was passed during the 1998 Legislature. This law requires that a "care provider," which includes those individuals providing direct care or having routine and unsupervised physical or financial access to any care recipient, must undergo a nationwide criminal history screening to ensure to the highest degree possible the prevention of abuse, neglect or financial exploitation of individuals receiving care. This law prohibits persons with disqualifying convictions from working with individuals receiving health care. The law is very specific about the conviction history and the care provider's responsibility, as well as the types of crimes and convictions. See Section IV of this policy for a list of disqualifying convictions.

HIT and Medical Coding students enrolled in healthcare education are defined by the law as "caregiver" and as such, must submit an application for a nationwide criminal history screening prior to the student's entry into the program or the term before commencement of the student's professional practice experience. A student must receive a full clearance to maintain enrollment in the program. If the screening results in a disqualification, the student may be removed from the program. The student must meet with the Health Information Technology program director to discuss options.

II. Definitions.

For purposes of this policy, the following definitions shall apply:

- A. "**act**" means Sections 29-17-2 to 29-17-5, NMSA 1978 of the caregivers criminal history screening act.
- B. "**applicant**" means a person who applies, and is offered employment or contractual service with a care provider to provide services as a caregiver or hospital caregiver whether as an employee or contractor.
- C. "**care**" means the therapy, services, treatment, support, supervision, assistance with the activities of daily living or management of a care recipient.
- D. "**caregiver**" means any person whose employment or contractual service as a student with a care provider includes direct care or routine and unsupervised physical or financial access to any care recipient serviced by that provider.
- E. "**care provider**" includes:
 - (1) state owned or operated health care facilities, intermediate care facilities for the mentally retarded general acute care hospitals, long-term care hospitals, psychiatric hospitals, rehabilitation hospitals, hospice services, guardianship providers, adult residential care facilities, adult community residential facilities, adult limited diagnostic treatment centers, case management entities providing services to persons with developmental disabilities, adult boarding homes, adult day care centers, adult family care homes, adult halfway homes, care providers operating respite, companion or personal care programs funded by the New Mexico aging and long term services department, care providers funded through the New Mexico Children Youth and Families Department providing homemaker and adult care services, disabled and elderly residential care providers providing services paid for in whole or in part by state funds, home health agencies, all residential habilitation service or respite service care 7.1.9 NMAC 2 providers authorized to be reimbursed in whole or in part by state funds or under any Medicaid or Medicaid waiver

- program, nursing home facilities, any other care provider entity which is licensed or Medicaid certified and which is not specifically identified herein.
- (2) **“care provider”** does not include: outpatient treatment facilities, diagnostic and treatment facilities, ambulatory surgical centers and facilities, end-stage renal dialysis and treatment facilities, rural health clinics, private physicians’ offices or other clinics that operate in the same manner as private physicians’ offices in group practice settings, and any care facility located at or performing services exclusively for any correctional facility.
- (3) CNM, as an institution providing healthcare education, enters into clinical education contracts with care providers in New Mexico that allow students to serve as caregivers. In this capacity, CNM is required by law to obtain a caregiver criminal history screening clearance through the New Mexico Department of Health, Division of Health Improvement, Caregivers Criminal History Screening Program.
- F. **“care recipient”** means any person under the care of a care provider who has a physical or mental illness, injury or disability or who suffers from any cognitive impairment that restricts or limits the person’s activities.
- G. **“consent”** means the written acknowledgment of permission to conduct a nationwide or statewide criminal history screening. Consent also includes, with respect to the criminal history record, permission for the New Mexico Department of Health, Caregivers Criminal History Screening Program, following an attempt to obtain clarifying information from the applicant, caregiver or hospital caregiver to attribute, as a rebuttable presumption, disqualifying conviction status to any arrest for crimes that would constitute a disqualifying conviction and for which the arrest appearing on the nationwide criminal history record lacks a final disposition.
- H. **“disqualifying conviction”** means a plea, judgment or verdict of guilty, a plea of nolo contendere, an Alford plea or any plea or judgment entered in connection with a suspended sentence, in this state or from any other state or jurisdiction to a felony crime listed in 7.1.9.11 NMAC. If a conviction may be considered in or used for sentence enhancement in a subsequent proceeding, then it is a disqualifying conviction under these rules if the conviction is for a crime listed in 7.1.9.11 NMAC.
- I. **“hospital caregiver”** means any person whose employment or contractual service with a care provider includes direct care or routine and unsupervised physical or financial access to any care recipient serviced by that care provider in an inpatient setting who is not a licensed New Mexico health care professional practicing within the scope of a profession’s license.
- J. **“nationwide criminal history screening”** means a criminal history background investigation of an applicant, caregiver or hospital caregiver through the use of fingerprints reviewed by the Department of Public Safety and submitted to the Federal Bureau of Investigation, resulting in the generation of a nationwide criminal history record for that applicant, caregiver or hospital caregiver.
- K. **“nationwide criminal history record”** means information collected by criminal justice agencies concerning an applicant’s, caregiver’s or hospital caregiver’s arrests, indictments or other formal criminal charges, and any dispositions arising there from, including convictions, dismissals, acquittals, sentencing and correctional supervision.
- L. **“routine”** means in the context of care provision or financial access by an applicant, caregiver or hospital caregiver, that which is non-episodic and regularly scheduled or assigned.
- M. **“supervised”** means, in the context of care provision or financial access, the supervisory oversight a care provider employs to ensure the prevention of abuse, neglect or the misappropriation of property of a care recipient by a caregiver or hospital caregiver during the caregiver’s or hospital caregiver’s conditional employment period. Supervisory oversight shall include but is not limited to a management program utilized by the care provider, which demonstrates a systematic and routine monitoring of the safety and quality of service provided by the caregiver or hospital caregiver to the care recipient during the caregiver’s or hospital caregiver’s conditional employment period.

- N. **“statewide criminal history screening”** means a criminal history background investigation of an applicant, caregiver or hospital caregiver through the use of fingerprints reviewed by the department of public safety resulting in the generation of a statewide criminal history record of the applicant, caregiver or hospital caregiver.
- O. **“unsupervised”** means, in the context of care provision or financial access, that which occurs without the on-site, visual or physical presence of another caregiver or hospital caregiver or a family member of the care recipient or of another individual representing the care provider.

IV. Disqualifying Convictions

The following felony convictions disqualify a student from being enrolled in the program:

- A. homicide;
- B. trafficking, or trafficking in controlled substances;
- C. kidnapping, false imprisonment, aggravated assault or aggravated battery;
- D. rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, or other related felony sexual offenses;
- F. crimes involving adult abuse, neglect or financial exploitation;
- G. crimes involving child abuse or neglect;
- H. crimes involving robbery, larceny, extortion, burglary, fraud, forgery,
- I. embezzlement, credit card fraud, or receiving stolen property; or
- J. an attempt, solicitation, or conspiracy involving any of the felonies in this subsection.

In cases when the criminal history record lists an arrest for a crime that would constitute a disqualifying conviction and no final disposition is listed for the arrest, the New Mexico Department of Health, Caregivers Criminal History Screening Program will attempt to notify the applicant, caregiver or hospital caregiver that a final determination requires additional information. Most misdemeanors do not disqualify the student. The additional information/evidence, such as, a certified copy of an acquittal, dismissal or conviction of a lesser crime, will be requested and must be provided by the applicant, caregiver or hospital caregiver regarding the final disposition of the arrest within timelines set forth by New Mexico Department of Health, Caregivers Criminal History Screening Program.

V. Caregivers Criminal History Screening Program Application Process

The New Mexico Department of Health, Division of Health Improvement manages the Caregivers Criminal History Screening Program (CCHSP). CNM, a contracted partner of the care providers, is required to submit an application for screening on behalf of each student who is enrolled in an HIT and/or Medical Coding program and who is defined as a caregiver. The application must be submitted by the HIT program to the CCHSP prior to the student’s entry into the program or at the commencement of the student’s professional practice experience. The application must include:

- Three (3) completed fingerprint cards;
- A copy of a photo identification (drivers license or passport) that meets the requirements of the Immigration and Naturalization Act; and
- A signed “Authorization for Release of Information” form which includes the student’s social security number.

All documentation submitted to the New Mexico Department of Health, Caregivers Criminal History Screening Program for the purposes of criminal history screening and for the purposes set forth in 7.1.9.9 NMAC and 7.1.9.10 NMAC shall become the sole property of the New Mexico Department of Health, Caregivers Criminal History Screening Program with the exception of fingerprint cards which shall be destroyed upon clearance by both the Federal Bureau of Investigation and Department of Public Safety. All other submitted documentation shall be retained by the New Mexico Department of Health, Caregivers Criminal History Screening Program for a period of one year from the final date of closure and thereafter shall

be archived. More information about this program is available from the New Mexico Department of Health:

New Mexico Department of Health
Division of Health Improvement (DHI)
Caregivers Criminal History Screening Program (CCHSP)
P.O. Box 26110
Santa Fe, NM 87502
TEL: (505) 476-0801
FAX: (505)424-7974
<http://dhi.health.state.nm.us/cchsp/index.php>

Fingerprinting sessions will be scheduled by the HIT program prior to and during the beginning of each term. All students who are enrolled in the HIT programs and who are defined as caregivers are required to be fingerprinted at one of the schedule sessions. Students must present an appropriate photo ID (driver's license or passport) that meets the requirements of the Immigration and Naturalization Act and sign an "Authorization for Release of Information" form at the time of fingerprinting.

The CCHS Program electronically submits the screening information within 24 hours of receipt of the application. A clearance may be determined in as few as 7 days if an applicant has no criminal history. A final determination for an applicant with a disqualifying history, depending on criminal charges and inter-agency processing, may take as many as 90 days or longer.

VI. Screening Results

- A. CCHSP will send the results of each applicant's screening to CNM Health, Wellness and Public Safety Division and to the applicant simultaneously. HWPS will inform the HIT program director of the said results.
- B. Applicants with no disqualifying criminal history are given a **clearance**. The clearance is in effect for the duration of continuous enrollment in the program. See definition for continuous enrollment in the CNM 2007-09 catalog, page 32.. When a student does not maintain continuous enrollment and/or, when a student changes to a different program within CNM health programs for which a screening is required, the screening must be repeated. When a screening is being repeated within 12 months of the previous screening in which no disqualifying convictions were found, the screening may include a statewide criminal history screening only.
- C. CCHSP will send a written **notice of a disqualifying conviction** to CNM Health, Wellness and Public Safety Division and to the applicant simultaneously. The HIT program director will also received information of said notice. Upon receipt of the final letter of disqualifying conviction(s) the student must meet with the Health Information Technology program director to discuss options. The student will not be eligible to enroll in any other allied health or nursing program that requires a caregiver's criminal history screening.
- D. A student found to have a disqualifying conviction may request an administrative reconsideration from the New Mexico Department of Health, Caregivers Criminal History Screening Program. The reconsideration committee shall take into account the requirements of Section 28-2-1 to 28-2-6, NMSA 1978 of the criminal offender employment act. However, that act may not effect the disposition of the student's case. The following factors may be considered:
 - i. total number of disqualifying convictions;
 - ii. time elapsed since last disqualifying conviction or since discharge of sentence;
 - iii. circumstances of crime including whether violence was involved;
 - iv. activities evidencing rehabilitation, including but not limited to substance abuse or other rehabilitation programs;
 - v. whether conviction was expunged by the court or whether an unconditional pardon was granted;
 - vi. false or misleading statements about any conviction in the signed declaration;

- vii. evidence that applicant , caregiver or hospital caregiver poses no risk of harm to the health and safety of care recipients; and,
- viii. the age of applicant, caregiver or hospital caregiver at time of disqualifying conviction.

VII. Fees

- A. The fee for the nationwide and state background check is \$65.00 to be paid by the student. Payment is required at the time of fingerprinting in the form of a money order made out to “Caregivers Criminal History Screening Program” or “CCHSP.”

VIII. Maintenance of Records and Confidentiality.

The HIT program shall maintain relevant documentation for all students required to undergo a caregiver criminal history screening. Documentation of the student’s application status, clearance or disqualification shall be maintained in accordance with the college’s records retention policy.

All information related to the caregiver criminal history screening process shall be kept confidential except when there is a legitimate academic need-to-know in accordance with the Family Educational Rights and Privacy Act of 1974 (FERPA, P.L. 93-380, 512)

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