

## Attachment to Frequently Asked Questions\*

An individual is prohibited from working in the covered long-term care settings if the individual satisfies one or more of the following:

- a. Has been convicted of a relevant crime described under 42 USC 1320a-7. This federal statute provides a mandatory exclusion such that individuals who have been convicted of the following crimes shall be excluded from participation in any federal health care program:

- conviction related to patient abuse.
- felony conviction related to health care fraud.
- felony conviction related to controlled substances.
- conviction of a crime related to the delivery of an item or service.

This federal statute also provides a permissive exclusion such that individuals who have been convicted of the following crimes may be excluded from participation in any federal health care program:

- misdemeanor fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.
- conviction related to obstruction of an investigation.
- misdemeanor conviction related to controlled substances.

- b. Has been convicted of:

- any of the felonies listed below;
- an attempt or conspiracy to commit a felony listed below or
- a state or federal crime that is “similar” to the listed felonies (other than a felony for a relevant crime described under 42 USC 1320a-7).

If 15 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction prior to the date of application for employment or clinical privileges or the date of the execution of the independent contract, then the individual is not prohibited from working in a covered long-term care setting.

### Felonies Requiring a 15-Year Lapse

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| <ul style="list-style-type: none"><li>i. A felony involving cruelty or torture.</li><li>ii. A felony involving criminal sexual conduct.</li><li>iii. A felony involving abuse or neglect.</li><li>iv. A felony involving the use of a firearm or dangerous weapon.</li><li>v. A felony involving the diversion or adulteration of a prescription drug or other medications.</li><li>vi. A felony that involves the intent to cause death or serious impairment of</li></ul> |
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a body function, that results in death or serious impairment of a body function, that involves the use of force or violence, or that involves the threat of the use of force or violence.

vii. A felony that involves vulnerable adult abuse under chapter XXA of the Michigan Penal Code, 1931 PA 328, MCL 750.145m to 750.145r.

- c. Has been convicted of a felony or an attempt or conspiracy to commit a felony, other than a felony for a relevant crime described under 42 USC 1320a-7 or a felony described under subdivision (b), unless 10 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction prior to the date of application for employment or clinical privileges or the date of the execution of the independent contract.
- d. Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7, or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 10 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

Misdemeanor Convictions Requiring a 10-Year Lapse

- i. A misdemeanor involving abuse or neglect.
- ii. A misdemeanor involving cruelty or torture unless otherwise provided under subdivision (e).
- iii. A misdemeanor involving criminal sexual conduct.
- iv. A misdemeanor that involves vulnerable adult abuse under chapter XXA of the Michigan Penal Code, 1931 PA 328, MCL 750.145m to 750.145r.
- v. A misdemeanor involving the use of a firearm or dangerous weapon with the intent to injure, the use of a firearm or dangerous weapon that results in a personal injury, or a misdemeanor involving the use of force or violence or the threat of the use of force or violence.

- e. Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7, or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 5 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

Misdemeanor Convictions Requiring a 5-Year Lapse

- i. A misdemeanor involving cruelty if committed by an individual who is less than 16 years of age.
- ii. A misdemeanor involving home invasion.
- iii. A misdemeanor involving embezzlement.
- iv. A misdemeanor involving negligent homicide.
- v. A misdemeanor involving larceny unless otherwise provided under subdivision (g).
- vi. A misdemeanor of retail fraud in the second degree unless otherwise

- vii. provided under subdivision (g).  
Any other misdemeanor involving assault, fraud, theft, or the possession or delivery of a controlled substance unless otherwise provided under subdivisions (d), (f), or (g).

f. Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7, or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 3 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

- Misdemeanor Convictions Requiring a 3-Year Lapse
- i. A misdemeanor for assault if there was no use of a firearm or dangerous weapon and no intent to commit murder or inflict great bodily injury.
  - ii. A misdemeanor of retail fraud in the third degree unless otherwise provided under subdivision (g).
  - iii. A misdemeanor under part 74 of the Public Health Code, 1978 PA 368, MCL 333.7401 to 333.7461 relating to controlled substances, unless otherwise provided under subdivision (g).

g. Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7, or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the year immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

- Misdemeanor Convictions Requiring a 1-Year Lapse
- i. A misdemeanor under Part 74 of the Public Health Code, 1978 PA 368, MCL 333.7401 to 333.7461 relating to controlled substances, if the individual, at the time of conviction, is under the age of 18.
  - ii. A misdemeanor for larceny or retail fraud in the second or third degree if the individual, at the time of conviction, is under the age of 16.

h. Is the subject of an order or disposition under section 16b of Chapter IX of the Code of Criminal Procedure, 1927 PA 175, MCL 769.16b. This statutory provision pertains to a finding of not guilty by reason of insanity.

i. Has been the subject of a substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency pursuant to an investigation conducted in skilled nursing facilities in accordance with 42 USC 1395i-3 or 1396r.

\* This is a general summary of the laws and should not be used as the sole source of guidance. The ultimate authority is the relevant Public Act.