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Background Checks and Criminal Convictions Policy for Program Applicants and Current Students

Type

Academic (relates to academic affairs generally, faculty and/or student affairs)

I. Rationale

Baylor College of Medicine (BCM) seeks to ensure that all incoming and current students in programs that involve patient care or that lead to a role in a licensed profession meet both the high excellence and professionalism standards of BCM and the profession for which they are being trained. Students and trainees at BCM practice in confidential environments and bear responsibility for the health and safety of patients, which requires both ethical behavior and the exercise of sound judgment. BCM will notify all Applicants that any criminal convictions (including deferred judgments) may impact their ability to become licensed following the completion of a BCM academic program. BCM will also perform criminal background checks to determine whether Applicants and Current Students are at risk of licensure restriction, and communicate the potential impact on future licensure and eligibility to matriculate or maintain enrollment at BCM.

II. Stakeholders Affected by this Policy

Compliance with this policy is mandatory for all BCM schools, Applicants, and Current Students.

III. Definitions

- (a) **Criminal Conviction** refers to any misdemeanor or felony conviction or deferred adjudication thereof. Examples of Criminal Convictions include Driving While Intoxicated (DWI); Driving Under the Influence (DUI); Driving While License is Suspended (DWLS); Failure to Appear (FTA); Reckless Driving; Open Container; Assault; Assault with a Motor Vehicle; Battery; Public Intoxication; deferred judgment of any offense listed. Criminal Conviction does not include fines or citations for minor traffic violations, such as speeding, running a red light, and failing to yield or obey a traffic device. For more examples of minor traffic violations, consult [Section VIII.a](#) (below).
- (b) **Applicant** refers to a prospective student who completes an application to enroll in a BCM academic program.
- (c) **Current Student** refers to a student currently enrolled in one of BCM's academic programs.

IV. Policy

A. Applicants.

1. **Notice to Applicants.** In compliance with applicable laws, regulations, and standards ([see Section X](#)) BCM will notify all Applicants of the following information using one or more mechanisms described in [Section VI.A.1](#) (below):
 - a. *Licensure Restrictions.* The issuance of occupational licenses in Texas or other states may be restricted based on an Applicant's criminal history, and certain

- offenses may render an Applicant ineligible for an occupational license. Texas occupational licensing authorities (which issue licenses to students who complete academic programs) are required to issue guidelines that explain their reasoning for relating a particular crime to a particular license, and any other criterion that affects the decisions of the licensing authority. Applicants are encouraged to review all eligibility requirements applicable to the occupational license sought. Questions related to eligibility requirements should be directed to the applicable licensing authority.
- b. *Mandatory Background Check*. BCM must assess each applicant's suitability for professional practice by performing a criminal background check prior to matriculation. The criminal background check is not a component of the application, interview, or decision-making process for BCM schools, but rather a mandatory component of the post-acceptance matriculation process.
 - c. *Mandatory Disclosure of Criminal Convictions*. Non-disclosure of a Criminal Conviction and/or falsification of information provided for background check purposes may lead to disciplinary action, up to and including rescission of the offer of admission.
2. Conditional Offers of Admission. BCM may send letters of acceptance to Applicants prior to performance or review of a background check. An offer of admission to any BCM school and degree-granting program is conditional upon the Applicant's consent to the background check, satisfaction of enrollment eligibility requirements, and the accuracy and currency of the background check report.
- a. *Consent* - All Applicants who receive an offer of admission must consent to the performance of a criminal background check on behalf of the College. Admission may be denied or rescinded based on an Applicant's failure to provide consent for the background check; an Applicant's failure to provide accurate and current information to BCM for background check purposes; or on review of the background check report.
 - b. *Enrollment Eligibility* – Eligibility to enroll in a BCM school and program is contingent upon the Applicant's ability to demonstrate the good character and ethical fitness necessary not only for the exercise of sound judgment during education and training, but also for admittance to a health profession or administration of basic or clinical sciences research. BCM will evaluate Applicant character and fitness by reviewing background check reports in addition to the application materials submitted by the Applicant. If the background check indicates ineligibility for licensure or research administration, then the Applicant may be ineligible for BCM enrollment and admission may be denied or rescinded. The School Dean or Designee (SDD) will evaluate Applicant eligibility using the procedures described in [Section VI](#).
 - c. *Background Check Discrepancies* – Applicants must make good faith disclosures of all Criminal Convictions on their application, regardless of the jurisdiction in which the Conviction occurred (e.g., city, state, county). The SDD will review any discrepancies to determine their impact on the admission process ([see Section VI.A.2](#), below).
 - d. *Inspection for Accuracy* - Applicants have the right to review the background check report for accuracy and completeness, and to request that the vendor verify that the background information provided to BCM is correct. Time is of the essence. Applicants must contact the vendor and SDD promptly in the event of any perceived inaccuracy.
3. Conviction Review. Consistent with the Student Records Policy (23.1.06), only school officials with a legitimate educational interest may have access to background check reports. Any disclosed or undisclosed Criminal Conviction that appears on the background check report of an Applicant will be reviewed by the SDD of the program to which the Applicant has applied, as described in [Section VI.B.1](#) (below).

4. Notice of Admission Determination. Applicants must be notified, in writing, of any admissions actions taken pursuant to the background check and criminal conviction review, as described in [Section VI.A.1.d](#) (below).
5. Retention of Applicant Admission Records. Consistent with the Admissions Records Policy (see 23.1.01, Section IV.G), the SDD must take steps to retain documentation related to Applicant correspondence, determinations about background check discrepancies, or ad hoc committee determinations of Criminal Convictions that result in rescission of an offer of admission.

B. Current Students.

1. Current Students must be notified of the following information, as described in [Section VI.B.2](#) (below):
 - a. Certain Criminal Convictions may impact their ability to obtain licensure during or following completion of a BCM academic program; and
 - b. Consistent with the Respectful and Professional Learning Environment Policy (23.2.01), Current Students must disclose any arrest or Criminal Conviction (regardless of the jurisdiction where the event occurred) to the SDD within 5 business days of the arrest or adjudication. All reported arrests and Criminal Convictions will be reviewed to determine appropriate next steps ([see Section VI.B.2.b](#), below).
2. Student Academic Record Documentation. Information from background check reports unrelated to admissions decisions or continued enrollment will be classified as “non-academic student records” and maintained by the SDD. These records will not become part of the students’ permanent file. Consistent with the Student Records Policy (23.1.06), background check information that is related to admission or enrollment decisions for Current Students are considered part of the academic record.
3. Retention of Student Records. In accordance with the Student Records Policy (23.1.06), SDDs must retain documentation of adverse action (e.g., dismissal) or other corrective action (e.g., counseling) taken against Current Students pursuant to this and/or other BCM policies for the time period specified in the Record Retention Schedule of the BCM Record Retention Policy (08.4.05).

V. Responsibilities

- A. Designated admissions officers for each BCM program will take steps to achieve: proper notification of Applicants of any admission actions resulting from the background check process or Criminal Conviction review, as described in [Section VI.A.1.d](#) (below); timely completion and review of background checks; and that review of any Applicant Criminal Conviction complies with this policy.
- B. The SDD is responsible for reviewing any arrests, Criminal Convictions, and background check reports to determine if further review is necessary that may impact the Applicant’s acceptance or the Current Student’s enrollment.

VI. Procedures for Implementation and Review

A. Applicant Background Check Procedures.

1. Mechanisms for Notice to Applicants.
 - a. *Applications* – The School Dean or Designee (SDD) of each BCM school must verify that all applications for admission to BCM degree-granting programs include i) a statement requiring disclosure of all misdemeanor and felony convictions, including deferred adjudication; and ii) a statement that non-disclosure or falsification may lead to either rescission of the offer of admission or to dismissal.

- b. *BCM Website Announcement* – The Office of the Provost, working in collaboration with the SDD of each BCM school, must verify that information described in [Section IV.A.1 \(above\)](#) is published on the BCM public website.
 - c. *Letters of Acceptance* – The SDD for each BCM program must verify that the letter sent to each accepted Applicant (or wait-listed Applicant, as appropriate) includes information about this policy’s requirements, with the contingency that admission may be denied or rescinded based on institutional review of the background check ([see Section IV.A.2, above](#)).
 - d. *Admissions Action* – Designated admissions officers for each BCM program must take steps to have Applicants properly notified if any actions are taken by BCM pursuant to the background check reports or Criminal Conviction review (e.g., rescind offer of admission).
2. Due Process Review of Discrepancies.
- a. The SDD has discretion to request additional information from the Applicant in order to evaluate the circumstances of the omission or gather factual information about the nature of any undisclosed Criminal Convictions, as described in [Section VI.B.1](#) (below). If the Applicant does not submit a timely response to the SDD’s inquiries (or does not respond at all), the Applicant waives the opportunity to provide additional information or context regarding the omission or Criminal Conviction. A response from the Applicant is considered timely so long as it is submitted on or before the deadline for response given by the SDD.
 - b. The Applicant may challenge background check reports that are inaccurate, and must provide supporting documentation or other information to explain any perceived inaccuracies (e.g., an alleged undisclosed Criminal Conviction belongs not to the Applicant but of a person of the same name; police report alleging identity theft; criminal charge against a third party for theft of Applicant’s identity).
 - c. Depending on the circumstances, discrepancies between the information provided by the Applicant and the background check report may be deemed a deliberate omission, falsification of information, or harmless error at the discretion of the SDD.
 - d. If the Applicant does not inspect the accuracy of the report until after a determination has already been made by the SDD, or fails to timely respond to requests for information from the SDD, the Applicant forfeits the opportunity to challenge the accuracy of the report and cannot request reconsideration of the background check report.
 - e. The SDD’s determination of a deliberate omission or falsification by Applicant will result in rescission of the offer or a denial of admission.

B. Criminal Conviction Review Procedure.

1. Applicants.

- a. If the SDD determines that a Criminal Conviction may impact the offer of admission, then:
 - 1) The Applicant will be contacted and asked for a detailed explanation.
 - 2) The Conviction will be reviewed by an ad hoc workgroup consisting of:
 - a) Dean of the school,
 - b) Program Director or Associate Dean of the program,
 - c) A representative from the Office of General Counsel,
 - d) Admissions Dean (if applicable), and
 - e) Chair of the program admissions committee.
- b. The ad hoc workgroup will consider the following facts and circumstances during a Criminal Conviction review:
 - 1) The nature, circumstances, and frequency of any offenses;
 - 2) The Conviction’s impact on the ability to become licensed;
 - 3) The length of time since the offense;
 - 4) Documented successful rehabilitation, as applicable;

- 5) The accuracy of the information provided by the Applicant in his or her application materials; and
 - 6) The Applicant's provided explanation.
- c. The ad hoc workgroup will make one of the following determinations regarding the Criminal Conviction:
- 1) *Grave concern* – there is a substantial likelihood that the Applicant cannot obtain a license. As a result, the Applicant will not be admitted.
 - 2) *Minor concern* – the Criminal Conviction is unlikely to prevent the Applicant from obtaining a license. As a result, the Applicant could be granted admission. Additional communications with Applicant may be appropriate.
 - 3) *No concern* – the Criminal Conviction poses no foreseeable obstacle to Applicant licensing. Admission may be granted without regard to the Applicant's Criminal Conviction.
- d. The SDD will ensure all Conviction determination(s) are sent to the school/program's designated admissions officers for implementation, communication to Applicant, and retention purposes.
2. Current Students.
- a. Notice.
- 1) The Office of the Provost, working in collaboration with the BCM Registrar, must verify that information described in [Section IV.B.1](#) (above) is published on the BCM public website.
 - 2) The Office of the Provost and SDDs are jointly responsible for publishing this policy's requirements in respective school handbooks, and to make handbooks available to all Current Students.
- b. A disclosed Criminal Conviction or arrest will be reviewed for counseling or disciplinary action. The review will be conducted by an ad hoc workgroup that includes:
- 1) Dean of the school,
 - 2) Program Director or Associate Dean of the program,
 - 3) A representative from the Office of General Counsel, and
 - 4) Any other school official (as identified by the SDD) who has a legitimate educational interest in the information, such as the Wellness Intervention Team or an Occupational Health Program representative. Refer to the Student Records Policy (23.1.06) for more information.
- c. The ad hoc workgroup will consider the following facts and circumstances during review of the arrest or Criminal Conviction:
- 1) The nature, circumstances, and frequency of any offense (s);
 - 2) The impact of the Conviction (or potential Conviction) on the ability to become licensed;
 - 3) The length of time since the offense (s);
 - 4) Possibility of successful rehabilitation, as applicable;
 - 5) The accuracy of the information provided by the Student; and
 - 6) The student's provided explanation.
- d. The ad hoc workgroup will make one of the following determinations regarding the arrest/Conviction, and then recommend appropriate corrective or disciplinary action according to school promotion policies and procedures:
- 1) *Grave concern* – there is a substantial likelihood that the Student cannot obtain a license. As a result, adverse action may be taken against the Student (e.g., suspension, dismissal).
 - 2) *Minor concern* – the arrest/Criminal Conviction is unlikely to prevent the Student from obtaining a license, but depending on the nature of the arrest or Conviction additional communication with Student may be appropriate (e.g., counseling, monitoring plan). Adverse action may be taken against the Student (e.g., probation).

- 3) *No concern* – the arrest/Criminal Conviction poses no foreseeable obstacle to Student licensing.
- e. The SDD will communicate determinations of the ad hoc workgroup to the Student, which may result in adverse action in accordance with school promotion requirements and/or other College policies.

C. **Policy Review and Update.** This policy will be reviewed every three years, and can be updated as necessary to comply with changes to applicable laws, regulations, and standards or to respond to operational needs identified by senior leadership.

VII. Stakeholder Compliance

N/A

VIII. Tools

- (a) [Examples of Minor Traffic Violations](#) – BCM considers this list, created by the Texas Department of Criminal Justice, to be persuasive when determining reportable versus minor (and non-reportable) incidents that may appear on a background check.
- (b) Guidelines issued by various occupational licensing authorities

IX. Related Policies

- [23.1.01 – Admissions Records Policy](#)
- [23.1.06 – Student Records Policy](#)
- [23.2.01 – Respectful and Professional Learning Environment Policy](#)

X. Applicable Laws, Regulations & Standards

- Texas HB 1508
- Texas Occupations Code 58.001
- Texas Occupations Code 53.102
- Texas Occupations Code 53.025