

# School of Medicine

## VI. DOCTOR OF MEDICINE (M.D.) POLICIES AND REGULATIONS

### A. Medical Student Background Check Policy

#### i. Applicability

This policy applies to applicants who have received an offer of admission to or current students not checked on admission and anticipating clinical assignments. Visiting students assigned placements in an affiliated clinical facility are also subject to the policy.

#### ii. Policy

Applicants who have received an offer of admission must submit to and satisfactorily complete a background check review as a condition to matriculation to the UT School of Medicine at San Antonio (SOM). An offer of admission will not be final until the completion of the criminal background check(s) with results deemed satisfactory. Admission may be denied or rescinded based on a review of the criminal background check.

Additionally, students who are currently enrolled and who do not have a valid criminal background check must submit to, and satisfactorily complete, a background check review as a condition to enrolling or participating in education experiences at affiliated clinical sites as required. Students who return from a leave of absence may also require a criminal background check. Students who refuse to submit to a criminal background check or do not pass the criminal background check review may be dismissed from the program.

#### iii. Rationale

- a. Health care providers are entrusted with the health, safety, and welfare of patients, have access to controlled substances and confidential information, and operate in settings that require the exercise of good judgment and ethical behavior. Thus, an assessment of an applicant's or current student's suitability to function in these settings is imperative to promote the highest level of integrity in health care services.
- b. Clinical facilities are increasingly required by accreditation agencies, such as the [Joint Commission of Healthcare Organization](#), to conduct background checks for security purposes on individuals who provide services within the facility and especially those who

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supervise care and render treatment. To facilitate this requirement, educational institutions have agreed to conduct these background checks for students and faculty.

- c. Clinical rotations are essential components of the medical school curriculum. Students who cannot participate in clinical rotations due to criminal or other adverse activities that are revealed in a criminal background check are unable to fulfill the requirements of medical school. Additionally, many health-care licensing agencies require individuals to pass a criminal background check as a condition of licensure or employment. Therefore, it is important to resolve these issues prior to a commitment of resources by the applicant, the current student or the SOM.
- d. The SOM is obligated to meet the contractual requirements contained in affiliation agreements between the SOM and the various clinical facilities.

### **iv. Background Check Report**

- a. The SOM will designate approved company(ies) to conduct the criminal background checks and issue reports directly to the SOM. Results from a company other than those designated by the SOM will not be accepted. Applicants who have received an offer of admission and current students must contact a designated company and comply with its instructions in authorizing and obtaining a criminal background check. Applicants who have received an offer of admission and current students are responsible for payment of any fees charged by a designated company to provide the criminal background check.
- b. Criminal background checks include the following and cover at least the past seven years:
  - 1. Criminal history search, including convictions, deferred adjudications or judgments, and pending criminal charges involving felonies, Class A, Class B, and Class C violations
  - 2. Social Security Number verification
  - 3. Violent Sexual Offender and Predator Registry search
  - 4. Office of the Inspector General (OIG) List of Excluded Individuals/Entities
  - 5. General Services Administration (GSA) List of Parties Excluded from Federal Programs
  - 6. U.S. Treasury Office of Foreign Assets Control (OFAC), List of Specially Designated Nationals (SDN)

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## 7. Applicable State Exclusion List

- c. Applicants who have received an offer of admission and current students have the right to review the information reported by a designated company for accuracy and completeness and to request that a designated company verify that the background information is correct. Prior to making a final determination that will adversely affect the applicant or current student, the SOM will provide the applicant or student a copy of or access to the background check report in order to question the accuracy of the report. The designated company is not involved in any decisions made by the SOM.

### v. Procedure

#### ***Applicants***

- a. Applicants must complete the required criminal background check review following the offer of admission but prior to matriculation.
- b. The criminal background check report will be submitted to and reviewed by the Background Check Review Committee. The Background Check Review Committee includes the Dean for Admissions, the Dean for Student Affairs and the Vice Dean for Undergraduate Medical Education. If the report contains negative findings, the committee may request that the applicant submit additional information related to the negative finding, such as a written explanation, court documents, and/or police reports. The committee will review all available relevant information and determine appropriate action.
- c. The committee has authority to refuse the admission of the applicant to the SOM. The committee decisions are final and may not be appealed.

#### ***Current Students***

- a. Students who did not have a valid criminal background check at the time of their admission into the medical education program must complete the criminal background check review prior to commencement of an assignment to a clinical facility. Students who return from a leave of absence may require a criminal background check. It is the obligation of current students to report all non-traffic related legal violations to the Office for Student Affairs within 30 days; these students may also require satisfactory completion of a criminal background check.

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- b. Criminal background check reports will be submitted to the Background Check Review Committee for its review. If the report contains negative findings, the committee may request that the student submit additional information related to the negative finding, such as a written explanation, court documents and/or police reports. The Background Check Review Committee will review all available relevant information and make decisions related to the student's participation in clinical activities.
- c. If the Background Check Review Committee has sufficient information from the background check to decide adverse action, the student may appeal to the Student Promotions Committee (SPC).

### **vi. Committee Review Standards**

- a. In reviewing the background check reports and any submitted information, the Background Check Review Committee may consider the following factors in making its determinations: the nature and seriousness of the offense or event, the circumstances surrounding the offense or event, the relationship between the duties to be performed as part of the medical education program and the committed offense, the age of the person when the offense or event occurred, whether the offense or event was an isolated or repeated incident, the length of time that has passed since the offense or event, past employment and history of academic or disciplinary misconduct, evidence of successful rehabilitation, and the accuracy of the information provided by the applicant who has received an offer of admission or student in the application materials, disclosure forms, or other materials. The committee will bear in mind both the safety interests of the patient and the workplace, as well as the educational interest of the student. In reviewing background checks and supplementary information, advice may be obtained from UT Health Science Center of San Antonio (HSC) or UT System counsel, HSC police, or other appropriate advisors.

### **vii. Confidentiality and Record Keeping**

- a. Criminal background check reports and other submitted information are confidential and may only be reviewed by HSC officials and affiliated clinical facilities in accordance with the Family Educational Records and Privacy Act (FERPA).

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- b. Students: Criminal background check reports and other submitted information will be maintained in the Office for Student Affairs in accordance with the HSC's record retention policy for student records.
- c. Applicants Denied Matriculation: Criminal background check reports and other submitted information of applicants denied matriculation into the program will be maintained in accordance with the HSC's record retention policy.

### **viii. Other Provisions**

- a. The SOM shall inform the student who has negative findings in his/her criminal background check report. The SOM's decision to allow the student to enroll in the medical education program is not a guarantee that every clinical facility will permit the student to participate at its clinical sites, or that any state will accept the individual as a candidate for registration, permit, or licensure. An assigned clinical facility may require a repeat criminal background check. The Office for Student Affairs will attempt to prevent unnecessary repeated criminal background checks at clinical sites. The student must recognize the potential for an inability to complete medical educational degree requirements if the student is denied participation at a clinical facility fulfilling an essential irreplaceable clinical experience. Clinical affiliates may adopt more stringent requirements to which the rotating student must comply.
- b. The SOM may require repeat criminal background checks for continuously enrolled students. A student who has a break in enrollment such as a leave of absence may be required to complete a re-entry criminal background check.
- c. Falsification of information, including omission of relevant information, may result in denial of admission or dismissal from the medical education program.
- d. Criminal activity that occurs while a student is in attendance at the SOM may result in disciplinary action, including dismissal, and will be addressed through the charge of the SPC.

### **ix. Policy for Sharing Student Background Checks**

- a. Authorization to share information: Student background check reports maintained by educational institutions are records subject to FERPA. FERPA prohibits the release of educational records without

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the student's written authorization unless there is a specific FERPA exception authorizing the release. Given that an affiliated clinical facility is offering educational services that would otherwise be provided by the educational institution, FERPA can be reasonably interpreted to permit the institution to release the information to the clinical facility without the student's authorization. NOTE: HIPAA is not applicable to this scenario.

1. A general notice will be provided to students that background check reports may be provided to affiliated clinical facilities at which students will attend as part of their required course of study.
  2. A general release will be obtained from students at the time of the criminal background check that authorizes the release of reports or results to any affiliated clinical facility to which students may be assigned.
  3. Information will be released to the affiliated clinical facility upon its request.
- b. Requests for Information: Request for criminal background check reports must be submitted in writing by the affiliated clinical facility and state the reason why the information is needed. All requests will be handled by the Office for Student Affairs. Requests for information records will be maintained for as long as the background check reports are maintained.
- c. Transmission of Information: Educational records will be sent to the clinical facility in a confidential manner. This can be achieved either by mailing the information and marking the outside of the envelope confidential, or scanning and e-mailing the records directly to the secure e-mail address for receipt of confidential information as identified by the clinical facility, preferably in the affiliation agreement.
- d. Confidentiality of Information: In releasing educational records to a clinical facility, FERPA requires that the clinical facility maintains the confidentiality of the educational records while the records are in its possession. The affiliated clinical facility will be informed in writing that:
1. the information is confidential and subject to FERPA;
  2. the information may only be viewed by individuals who have a legitimate need to view the information to verify or audit the qualifications of the student to participate in the educational program at the clinical facility;

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3. the information may not be disclosed to other entities without the student's written authorization;
  4. the information must be destroyed when it is no longer needed for the purposes for which the information was provided to the clinical facility; and
  5. improper disclosure of personally identifiable information contained within the report may result in the HSC being prohibited from providing the clinical facility access to this information for at least five years.
- e. Affiliation or Program Agreements: Affiliation agreements may include a reference for requirements of criminal background checks. If criminal background check reports are shared with the clinical facility, the clinical facility is subject to the requirements of FERPA as to any documents received by the clinical facility from the SOM regarding a student.