



Ohio Administrative Code

Rule 3701-60-09 Disqualifying offenses exclusionary periods; certificates; pardons.

Effective: January 27, 2023

(A) Disqualifying offense exclusionary periods: Except as set forth in paragraphs (B), (C) and (D) of this rule, a home health agency may employ an applicant or continue to employ an employee who has been convicted of, pleaded guilty to, or found eligible for intervention in lieu of conviction guilty of an offense listed in rule 3701-60-08 of the Administrative Code in a position involving providing direct care to an individual pursuant to the following exclusionary periods:

(1) Tier I: Permanent exclusion: No home health agency shall employ an applicant or continue to employ an employee in a position involving providing direct care to an individual who has been convicted of, or pleaded guilty to, an offense in any of the following sections of the Revised Code or an offense of any existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the following sections of the Revised Code:

(a) 2903.01 (aggravated murder);

(b) 2903.02 (murder);

(c) 2903.03 (voluntary manslaughter);

(d) 2903.06 (aggravated vehicular homicide, vehicular homicide, vehicular manslaughter);

(e) 2903.08 (aggravated vehicular assault, vehicular assault);

(f) 2903.11 (felonious assault);

(g) 2903.15 (permitting child abuse);

(h) 2903.16 (knowingly or recklessly failing to provide for a functionally-impaired person);



- (i) 2903.34 (patient abuse, gross patient abuse, patient neglect);
- (j) 2903.341 (patient endangerment);
- (k) 2905.01 (kidnapping);
- (l) 2905.02 (abduction);
- (m) 2905.32 (trafficking in persons);
- (n) 2905.33 (unlawful conduct with respect to documents);
- (o) 2907.02 (rape);
- (p) 2907.03 (sexual battery);
- (q) 2907.04 (unlawful sexual conduct with a minor, formerly corruption of a minor);
- (r) 2907.05 (gross sexual imposition);
- (s) 2907.06 (sexual imposition);
- (t) 2907.07 (importuning);
- (u) 2907.08 (voyeurism);
- (v) 2907.12 (felonious sexual penetration);
- (w) 2907.31 (disseminating matter harmful to juveniles);
- (x) 2907.32 (pandering obscenity);
- (y) 2907.321 (pandering obscenity involving a minor or impaired person);



- (z) 2907.322 (pandering sexually-oriented matter involving a minor or impaired person);
 - (aa) 2907.323 (illegal use of a minor or impaired person in nudity-oriented material or performance);
 - (bb) 2909.22 (soliciting or providing support for an act of terrorism);
 - (cc) 2909.23 (making a terroristic threat);
 - (dd) 2909.24 (terrorism);
 - (ee) 2913.40 (medicaid fraud);
 - (ff) If related to another offense under paragraph (A)(1) of this rule, 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity); or
- (2) Tier II: Ten-year exclusionary period:
- (a) No home health agency shall employ an applicant or continue to employ an employee in a position providing direct care to an individual for a period of ten years from the date the applicant or employee was fully discharged from all imprisonment, probation, or parole, if the applicant or employee has been convicted of, or pleaded guilty to, an offense in any of the following sections of the Revised Code or an offence of any existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the following sections of the Revised Code:
 - (i) 2903.04 (involuntary manslaughter);
 - (ii) 2903.041 (reckless homicide);
 - (iii) 2905.04 (child stealing, as it existed prior to July 1, 1996);
 - (iv) 2905.05 (child enticement);



- (v) 2905.11 (extortion);
- (vi) 2907.21 (compelling prostitution);
- (vii) 2907.22 (promoting prostitution);
- (viii) 2907.23 (enticing or soliciting another person to patronize a prostitute; procurement of a prostitute for another person to patronize);
- (ix) 2909.02 (aggravated arson);
- (x) 2909.03 (arson);
- (xi) 2911.01 (aggravated robbery);
- (xii) 2911.11 (aggravated burglary);
- (xiii) 2913.46 (illegal use of SNAP or WIC program benefits);
- (xiv) 2913.48 (worker's compensation fraud);
- (xv) 2913.49 (identity fraud);
- (xvi) 2917.02 (aggravated riot);
- (xvii) 2923.12 (carrying concealed weapons);
- (xviii) 2923.122 (illegal conveyance or possession of deadly weapon or dangerous ordnance in a school safety zone, illegal possession of an object indistinguishable from a firearm in a school safety zone);
- (xix) 2923.123 (illegal conveyance of a deadly weapon into a courthouse, possession or control of



deadly weapon or ordnance into a courthouse);

(xx) 2923.13 (having weapons while under disability);

(xxi) 2923.161 (improperly discharging a firearm at or into a habitation, school safety zone, or with the intent to cause harm or panic to persons in a school, in a school building, or at a school function or the evacuation of a school function);

(xxii) 2923.162 (discharge of firearm on or near prohibited premises);

(xxiii) 2923.21 (improperly furnishing firearms to a minor);

(xxiv) 2923.32 (engaging in a pattern of corrupt activity);

(xxv) 2923.42 (participating in a criminal gang);

(xxvi) 2925.02 (corrupting another with drugs);

(xxvii) 2925.03 (aggravated trafficking in drugs, trafficking in drugs, trafficking in marihuana, trafficking in cocaine, trafficking in LSD, trafficking in heroin, trafficking in hashish, trafficking in a controlled substance analog, trafficking in a fentanyl-related compound);

(xxviii) 2925.04 (illegal manufacture of drugs, cultivation of marijuana);

(xxix) 2925.041 (illegal assembly or possession of chemicals for the manufacture of drugs)

(xxx) 3716.11 (placing harmful or hazardous objects in food or confection);

(xxxi) If related to another offense under paragraph (A)(2)(a) of this rule, 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity); or,

(xxxii) An offense of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses described under paragraphs



(A)(2)(a)(i) to (A)(2)(a)(xxxi) of this rule.

(b) If an applicant or employee has been convicted of multiple disqualifying offenses, including an offense listed in paragraph (A)(2)(a) of this rule, and another offense or offenses listed in paragraph (A)(2)(a), (A)(3)(a), or (A)(4)(a) of this rule, and if the multiple disqualifying offenses are not the result of, or connected to, the same act, the applicant or employee is subject to a fifteen-year exclusionary period.

(3) Tier III: Seven-year exclusionary period:

(a) No employer shall employ an applicant or continue to employ an employee in a position providing direct care to an individual for a period of seven years from the date the applicant or employee was fully discharged from all imprisonment, probation, or parole, if the applicant or employee has been convicted of, or pleaded guilty to, any offense in any of the following sections of the Revised Code or an offense of any existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the following sections of the Revised Code::

(i) 959.13 (cruelty to animals);

(ii) 959.131 (prohibitions concerning companion animals);

(iii) 2903.12 (aggravated assault);

(iv) 2903.21 (aggravated menacing);

(v) 2903.211 (menacing by stalking);

(vi) 2905.12 (coercion);

(vii) 2909.04 (disrupting public services);

(viii) 2911.02 (robbery);



- (ix) 2911.12 (burglary, trespass in a habitation when a person is present or likely to be present);
- (x) 2913.47 (insurance fraud);
- (xi) 2917.01 (inciting to violence);
- (xii) 2917.03 (riot);
- (xiii) 2917.31 (inducing panic);
- (xiv) 2919.22 (endangering children);
- (xv) 2919.25 (domestic violence);
- (xvi) 2921.03 (intimidation);
- (xvii) 2921.11 (perjury);
- (xviii) 2921.13 (falsification, falsification in a theft offense, falsification to purchase a firearm, or falsification to obtain a concealed handgun license, falsification regarding a removal proceeding);
- (xix) 2921.34 (escape);
- (xx) 2921.35 (aiding escape or resistance to lawful authority);
- (xxi) 2921.36 (illegal conveyance of weapons, drugs, intoxicating liquor, or a communications device onto the grounds of a specified government facility, illegal conveyance of cash onto the grounds of a detention facility);
- (xxii) 2925.05 (funding drug trafficking);
- (xxiii) 2925.06 (illegal administration of distribution of anabolic steroids);



(xxiv) 2925.24 (tampering with drugs);

(xxv) 2927.12 (ethnic intimidation); or

(xxvi) If related to another offense under paragraph (A)(3)(a) of this rule, 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity).

(b) If an applicant or employee has been convicted of multiple disqualifying offenses, including an offense listed in paragraph (A)(3)(a) of this rule, and another offense or offenses listed in paragraph (A)(3)(a) or (A)(4)(a) of this rule, and if the multiple disqualifying offenses are not the result of, or connected to, the same act, the applicant or employee is subject to a ten-year exclusionary period.

(4) Tier IV: Five-year exclusionary period:

(a) No home health agency shall employ and applicant or continue to employ an employee in a position providing direct care to an individual for a period of five years from the date the applicant or employee was fully discharged from all imprisonment, probation, or parole, if the applicant or employee has been convicted of, or pleaded guilty to, and offense in any of the following sections of the Revised Code or an offence of any existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the following sections of the Revised Code:

(i) 2903.13 (assault);

(ii) 2903.22 (menacing);

(iii) 2907.09 (public indecency);

(iv) 2907.24 (soliciting, engaging in solicitation after a positive HIV test);

(v) 2907.25 (prostitution, engaging in prostitution after a positive HIV test);



- (vi) 2907.33 (deception to obtain matter harmful to juveniles);
- (vii) 2911.13 (breaking and entering);
- (viii) 2913.02 (theft);
- (ix) 2913.03 (unauthorized use of a vehicle);
- (x) 2913.04 (unauthorized use of property; unauthorized use of computer, cable, or telecommunication property; unauthorized use of the law enforcement automated database system; unauthorized use of the Ohio law enforcement gateway);
- (xi) 2913.05 (telecommunications fraud);
- (xii) 2913.11 (passing bad checks);
- (xiii) 2913.21 (misuse of credit cards);
- (xiv) 2913.31 (forgery, forging identification cards or selling or distributing forged identification cards);
- (xv) 2913.32 (criminal simulation);
- (xvi) 2913.41 (defrauding a rental agency or hostelry);
- (xvii) 2913.42 (tampering with records);
- (xviii) 2913.43 (securing writings by deception);
- (xix) 2913.44 (personating an officer);
- (xx) 2913.441 (unlawful display of the emblem of a law enforcement agency or an organization of law enforcement officers);



(xxi) 2913.45 (defrauding creditors);

(xxii) 2913.51 (receiving stolen property);

(xxiii) 2919.12 (unlawful abortion);

(xxiv) 2919.121 (unlawful abortion (upon minor));

(xxv) 2919.123 (unlawful distribution of an abortion-inducing drug);

(xxvi) 2919.124 (unlawful performance of a drug-induced abortion);

(xxvii) 2919.23 (interference with custody);

(xxviii) 2919.24 (contributing to the unruliness or delinquency of a child);

(xxix) 2921.12 (tampering with evidence);

(xxx) 2921.21 (compounding a crime);

(xxxi) 2921.24 (disclosure of confidential information);

(xxxii) 2921.32 (obstructing justice);

(xxxiii) 2921.321 (assaulting or harassing a police dog or horse, assaulting or harassing an assistance dog);

(xxxiv) 2921.51 (impersonation of peace officer, private police officer, federal law enforcement officer, or BCII investigator);

(xxxv) 2925.09 (illegal administration, dispensing, distribution, manufacture, possession, selling, or using of any dangerous drug to or for livestock or any animal that is generally used for food or in the



production of food, unless the drug is prescribed by a licensed veterinarian);

(xxxvi) 2925.11 (aggravated possession of drugs, possession of drugs, possession of cocaine, possession of LSD, possession of heroin, possession of hashish, possession of a controlled substance analog, possession of marihuana, possession of a fentanyl-related compound), unless a minor drug possession offense;

(xxxvii) 2925.13 (permitting drug abuse);

(xxxviii) 2925.22 (deception to obtain a dangerous drug);

(xxxix) 2925.23 (illegal processing of drug documents);

(xl) 2925.36 (illegal dispensing of drug samples);

(xli) (unlawful purchase of a pseudoephedrine product or ephedrine product, underage purchase of a pseudoephedrine product or ephedrine product, using false information to purchase a pseudoephedrine product or ephedrine product, improper purchase of a pseudoephedrine product or ephedrine product);

(xlii) 2925.56 (unlawfully selling a pseudoephedrine product or ephedrine product; unlawfully selling a pseudoephedrine product or ephedrine product to a minor; improper sale of a pseudoephedrine product or ephedrine product); or,

(xliii)) If related to another offense under paragraph (A)(4)(a) of this rule, 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity).

(b) If an applicant or employee has been convicted of multiple disqualifying offenses listed in paragraph (A)(4)(a) of this rule, and if the multiple disqualifying offenses are not the result of, or connected to, the same act, the applicant or employee is subject to a seven-year exclusionary period.

(5) Tier V: No exclusionary period: A home health agency may employ an applicant or continue to employ an employee in a position providing direct care to an individual who has been convicted of,



or pleaded guilty to, any of the following sections of the Revised Code or an offense of any existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the following sections of the Revised Code:

(a) 2925.11 (drug possession that is a minor drug possession offense);

(b) 2925.14 (illegal use, possession, dealing, selling to a juvenile, or advertising of drug paraphernalia); or

(c) 2925.141 (illegal use or possession of marihuana drug paraphernalia).

(B) Certificates: Except for individual with a disqualifying offense listed in paragraph (A)(1) of this rule, a home health agency may hire an applicant or continue to employ an employee who has been issued either a:

(1) Certificate of qualification for employment issued by a court of common pleas with competent jurisdiction pursuant to section 2953.25 of the Revised Code; or,

(2) Certificate of achievement and employability in a home and community-based service-related field, issued by the department of rehabilitation and corrections pursuant to section 2961.22 of the Revised Code.

(C) Limited grandfathering: A home health agency may continue to employ an employee who is otherwise excluded by paragraph (A)(4) of this rule if:

(1) The offense or offenses are listed in paragraph (A)(4) of this rule;

(2) The employee was hired prior to January 1, 2013;

(3) The conviction or plea of guilt occurred prior to January 1, 2013;

(4) The home health agency has considered the nature and seriousness of the offense or offenses and attests, in writing prior to April 1, 2013, to the employee's character and fitness based on their



demonstrated work performance.

(D) Pardons: A conviction or a plea of guilty to an offense listed or described in rule 3701-60-08 of the Administrative Code shall not prevent an applicant's employment or an employee's continued employment under any of the following circumstances:

- (1) The applicant or employee has been granted an unconditional pardon for the offense pursuant to Chapter 2967. of the Revised Code;
- (2) The applicant or employee has been granted an unconditional pardon for the offense pursuant to an existing or former law of this state, any other state, or the United States, if the law is substantially equivalent to Chapter 2967. of the Revised Code;
- (3) The conviction or guilty plea has been set aside pursuant to law; or,
- (4) The applicant or employee has been granted a conditional pardon for the offense pursuant to Chapter 2967. of the Revised Code, and the conditions under which the pardon was granted have been satisfied.