

## **Background Criminal History Verification in EMS Educational Programs**

- Issue/Rationale: EMS practitioners, by virtue of their certification, have unsupervised, intimate, physical and emotional contact with patients at a time of maximum physical and emotional vulnerability, as well as unsupervised access to personal property. In this capacity, they are placed in a position of the highest public trust, even above that granted to other public safety professionals and most other health care providers. While police officers require warrants to enter private property, and are subject to substantial oversight when engaging in “strip searches” or other intrusive practices, EMTs are afforded free access to the homes and intimate body parts of patients who are extremely vulnerable, and who may be unable to defend or protect themselves, voice objections to particular actions, or provide accurate accounts of events at a later time. This access to patients begins during the educational programs. (*Adapted from the National Registry of EMT’s “Felony Conviction Policy.”*)
- Currently, statutes proscribe certain behaviors as being inconsistent with an individual who could be entrusted to serve the public as an EMS provider:
- IC 16-31-3-14 Disciplinary sanctions; rescind certificate; deny certification; physical or mental examination; convictions; appeals; investigation; consistency of sanctions; approval to surrender certificate
  - (f) Except as provided under subsection (a), subsection (g), and section 14.5 of this chapter, a certificate may not be denied, revoked, or suspended because the applicant or certificate holder has been convicted of an offense. The acts from which the applicant’s or certificate holder’s conviction resulted may be considered as to whether the applicant or certificate holder should be entrusted to serve the public in a specific capacity.
  - (a) A person holding a certificate issued under this article must comply with the applicable standards and rules established under this article. A certificate holder is subject to disciplinary sanctions under subsection (b) if the department of homeland security determines that the certificate holder:
    - (5) is convicted of a crime, if the act that resulted in the conviction has a direct bearing on determining if the certificate holder should be entrusted to provide emergency medical services;
  - (g) The department of homeland security may deny, suspend, or revoke a certificate issued under this article if the individual who holds or is applying for the certificate is convicted of any of the following:
    - (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
    - (2) Possession of methamphetamine under IC 35-48-4-6.1.
    - (3) Possession of a controlled substance under IC 35-48-4-7(a).
    - (4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(b).

- (5) Manufacture of paraphernalia as a Class D felony under IC 35-48-4-8.1(b).
  - (6) Dealing in paraphernalia as a Class D felony under IC 35-48-4-8.5(b).
  - (7) Possession of paraphernalia as a Class D felony under IC 35-48-4-8.3(b).
  - (8) Possession of marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid as a Class D felony under IC 35-48-4-11.
  - (9) Maintaining a common nuisance under IC 35-48-4-13.
  - (10) An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.
  - (11) Conspiracy under IC 35-41-5-2 to commit an offense listed in subdivisions (1) through (10).
  - (12) Attempt under IC 35-41-5-1 to commit an offense listed in subdivisions (1) through (10).
  - (13) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described by subdivisions (1) through (12).
- Sec. 14.5. The department of homeland security may issue an order under IC 4-21.5-3-6 to deny an applicant's request for certification or permanently revoke a certificate under procedures provided by section 14 of this chapter if the individual who holds the certificate issued under this title is convicted of any of the following:
    - (1) Dealing in or manufacturing cocaine or a narcotic drug under IC 35-48-4-1.
    - (2) Dealing in methamphetamine under IC 35-48-4-1.1.
    - (3) Dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.
    - (4) Dealing in a schedule IV controlled substance under IC 35-48-4-3.
    - (5) Dealing in a schedule V controlled substance under IC 35-48-4-4.
    - (6) Dealing in a substance represented to be a controlled substance under IC 35-48-4-4.5.
    - (7) Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a substance represented to be a controlled substance under IC 35-48-4-4.6.
    - (8) Dealing in a counterfeit substance under IC 35-48-4-5.
    - (9) Dealing in marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid under IC 35-48-4-10(b).
    - (10) Conspiracy under IC 35-41-5-2 to commit an offense listed in subdivisions (1) through (9).
    - (11) Attempt under IC 35-41-5-1 to commit an offense listed in subdivisions (1) through (9).

- (12) A crime of violence (as defined in IC 35-50-1-2(a)).
    - (1) Murder (IC 35-42-1-1).
    - (2) Attempted murder (IC 35-41-5-1).
    - (3) Voluntary manslaughter (IC 35-42-1-3).
    - (4) Involuntary manslaughter (IC 35-42-1-4).
    - (5) Reckless homicide (IC 35-42-1-5).
    - (6) Aggravated battery (IC 35-42-2-1.5).
    - (7) Kidnapping (IC 35-42-3-2).
    - (8) Rape (IC 35-42-4-1).
    - (9) Criminal deviate conduct (IC 35-42-4-2).
    - (10) Child molesting (IC 35-42-4-3).
    - (11) Sexual misconduct with a minor as a Class A felony under IC 35-42-4-9(a)(2) or a Class B felony under IC 35-42-4-9(b)(2).
    - (12) Robbery as a Class A felony or a Class B felony (IC 35-42-5-1).
    - (13) Burglary as a Class A felony or a Class B felony (IC 35-43-2-1).
    - (14) Operating a motor vehicle while intoxicated causing death (IC 9-30-5-5).
    - (15) Operating a motor vehicle while intoxicated causing serious bodily injury to another person (IC 9-30-5-4).
    - (16) Resisting law enforcement as a felony (IC 35-44-3-3).
  - (13) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described under subdivisions (1) through (12).
- Currently, certificate/license candidates are evaluated for fitness at the end of their educational programs. This is frustrating for the candidates because they have been through an entire educational program, only to find out that they are not eligible for certification/licensure. In addition, these candidates have had free access to the homes and intimate body parts of patients who are extremely vulnerable, and who may be unable to defend or protect themselves, voice objections to particular actions, or provide accurate accounts of events at a later time.
- It would seem prudent to have a background check performed on EMS education candidates to ensure that they are able to function in a patient care capacity. The earlier this determination can be made, the earlier that students can be counseled regarding their ability to perform and/or be certified/licensed in this profession.
- Recommendation: In the ninety (90) days prior to the first planned patient contact (via out-of-hospital EMS observation, field internship, or clinical

rotation), the EMS educational program student must complete a background criminal history check arranged by the EMS educational program. This background criminal history check must provide a dataset which meets or exceeds the U.S. Government minimum requirement for sanction screening as set forth in the DHHS-OIG's Compliance Program Guidance:

- Criminal History Investigation (seven years)
- Sexual Offender Registry / Predator Registry
- Social Security Number Verification
- Positive Identification National Locator with Previous Address
- Maiden/AKA Name Search
- Medicare / Medicaid Sanctioned, Excluded Individuals Report
- Office of Research Integrity (ORI) Search
- Office of Regulatory Affairs (ORA) Search
- FDA Debarment Check
- National Wants & Warrants Submission
- Investigative Application Review (by Licensed Investigator)
- Misconduct Registry Search
- Executive Order 13224 Terrorism Sanctions Regulations
- Search of Healthcare Employment Verification Network. (HEVN)
- National Healthcare Data Bank (NHDB) Sanction Report - which includes a *Sanction Check* search to verify applicant's name(s) against the following database:

- **Federal Agencies:**

- Department of Health and Human Services (DHHS), Office of Inspector General (OIG), List of Excluded Individuals and Entities (LEIE)
- General Services Administration (GSA), Excluded Parties Listing System (EPLS) or those Excluded from Federal Procurement, No-Procurement and Reciprocal Programs
- Department of Health and Human Services (DHHS), Public Health Service (PHS), Office of Research Integrity (ORI), Administrative Actions Listing
- Food and Drug Administration (FDA), Office of Regulatory Affairs (ORA), Debarment List, and the Disqualified, Restricted and Assurances List for Clinical Investigators
- Department of Commerce, Bureau of Industry and Security, Denied Persons List
- Department of Health and Human Services (DHHS), Health Resources and Services Administration (HRSA), Health Education Assistance Loan (HEAL), List of Defaulted Borrowers
- Department of Treasury, Office of Foreign Assets Control, Specially Designated Nationals (SDN) and Blocked Persons List (Terrorists)
- And the following "Most Wanted" Lists: (a) Federal Bureau of Investigation (FBI) Ten Most Wanted Fugitives, (b) FBI Most

Wanted Terrorist List, (c) Drug Enforcement Administration (DEA) Most Wanted, (d) Bureau of Alcohol, Tobacco and Firearms (ATF) Most Wanted, (e) U.S. Marshall Service Most Wanted, (f) Department of Homeland Security, Immigration and Customs Enforcement (ICE) Most Wanted.

- **State Agencies:**
  - All State Agencies Reporting to the Office of Inspector General (OIG) of the Department of Health and Human Services (DHHS) and to the National Healthcare Data Bank (NHDB)
- A number of vendors provide these types of background checks, with costs typically in the \$58-75 range.
- Each EMS educational program will have in place a policy regarding counseling students regarding their eligibility for certification on the basis of the results of the background criminal history. A model for the certification eligibility information can be found on the National Registry of EMT's website entitled "Felony Conviction Policy" and could be modified to specifically include Indiana's proscribed acts. The TAC would design a model policy for adoption.