

Sc. 250.003. VERIFICATION OF EMPLOYABILITY; ANNUAL SEARCH;

DISCHARGE. (a) A facility or individual employer may not employ an applicant:

(1) if the facility or individual employer determines, as a result of a criminal history check, that the applicant has been convicted of an offense listed in this chapter that bars employment or that a conviction is a contraindication to employment with the facility or to direct contact with the individual using the consumer-directed service option;

(2) if the applicant is a nurse aide, until the facility or individual employer further verifies that the applicant is listed in the nurse aide registry; and

(3) until the facility or individual employer verifies that the applicant is not designated in the registry maintained under this chapter or in the employee misconduct registry maintained under Section 253.007 as having a finding entered into the registry concerning abuse, neglect, or mistreatment of an individual using the consumer-directed service option or a consumer, or misappropriation of the property of an individual using the consumer-directed service option or of a consumer.

(a-1) Except for an applicant for employment at or an employee of a facility licensed under Chapter 242 or 247, a person licensed under another law of this state is exempt from the requirements of this chapter.

(a-2) If a facility employs a person pending a criminal history check, the facility shall ensure that the person has no direct contact with a consumer until the facility obtains the person's criminal history record information and verifies the person's employability under Section 250.006.

(b) The facility may not employ an applicant covered by Subsection (a), except that in an emergency requiring immediate employment, a facility may hire on a temporary or interim basis a person not listed in the registry pending the results of a criminal conviction check, which must be requested:

(1) within 72 hours of employment; or

(2) if the facility is licensed under Chapter 242 or 247, within 24 hours of employment.

(c) A facility or individual employer shall immediately discharge any employee:

(1) who is designated in the nurse aide registry or the employee misconduct registry established under Chapter 253 as having committed an act of abuse, neglect, or mistreatment of an individual using the consumer-directed service option or a consumer, or misappropriation of the property of an individual using the consumer-directed service option or of a consumer; or

(2) whose criminal history check reveals conviction of a crime that bars employment or that the individual employer or the facility determines is a contraindication to employment as provided by this chapter.

(c-1) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 363, Sec. 11, eff. January 1, 2014.

(d) In addition to the initial verification of employability, a facility or an individual employer or financial management services agency on behalf of an individual employer shall:

(1) annually search the nurse aide registry maintained under this chapter and the employee misconduct registry maintained under Section 253.007 to determine whether any employee of the facility or of an individual employer is designated in either registry as having abused, neglected, or exploited a consumer or an individual using the consumer-directed service option; and

(2) maintain in the facility's or individual employer's books and records a copy of the results of the search conducted under Subdivision (1).

Added by Acts 1993, 73rd Leg., ch. 747, Sec. 25, eff. Sept. 1, 1993. Renumbered from Health & Safety Code Sec. 250.002 and amended by Acts 1995, 74th Leg., ch. 831, Sec. 1, eff. June 16, 1995. Amended by Acts 2001, 77th Leg., ch. 1025, Sec. 4, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1267, Sec. 3, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 911, Sec. 1, eff. June 20, 2003. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 436 (H.B. 2191), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 763 (S.B. 806), Sec. 6, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 763 (S.B. 806), Sec. 7, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(27), eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 879 (S.B. 223), Sec. 3.03, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 980 (H.B. 1720), Sec. 21, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 363 (H.B. 2683), Sec. 2, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 363 (H.B. 2683), Sec. 11, eff. January 1, 2014.