

**The Valley Foundation School of Nursing at  
San Jose State University**

**Student Nurse Background Check and Drug Screening Policy**

**I. Applicability and Purpose**

This policy applies to all students enrolled in The Valley Foundation School of Nursing (TVFSON) undergraduate and graduate programs and addresses required background checks and drug testing for students. The goal of these screening requirements is to assure compliance with clinical contracts and to promote safety of clients served in clinical agencies.

**II. Policy**

Students must submit to and satisfactorily complete a background check and urine drug screening as a condition for admission into all programs within TVFSON. An offer of admission will not be final until this background check and drug screening are completed and reviewed by the School of Nursing. Admission may be denied or rescinded based on these results. Additionally, students who are enrolled in the School of Nursing may be required to complete additional background checks and drug screenings during the course of their study (this may be required by a clinical agency or for reasons described in this policy). Students who refuse to submit to the background check and drug screening will be dismissed from the program.

**III. Background Check and Drug Screening Reports**

A. TVFSON will designate an approved vendor(s) to conduct the background checks and drug screening. Students and applicants are required to self-disclose any criminal conviction or any potentially positive drug screening information when they apply to the program, when a subsequent drug screening/background check may be required, when an infraction occurs, or when there is a change in health status. The designated vendor(s) will issue reports directly to TVFSON. Results from a vendor other than the designated, School approved vendor will not be accepted.

Students and applicants will contact the designated company and arrange for the background check and drug screening, complying with the requirements for obtaining the checks and drug screening, and reporting of the results. This will include authorization for obtaining the background check and drug screening and release of information to the SON.

B. Students and applicants are responsible for payment of any fees charged by the designated vendors. This includes fees associated with additional tests conducted on any positive drug screens as required/performed by the laboratory.

C. Background checks and drug screenings must be completed prior to the start of the first semester, or prior to beginning the clinical course when subsequent drug testing is required.

D. When reviewing results, the Director of the SON or her/his designee may consider the nature and circumstances of criminal convictions, or positive drug screen. *Criminal convictions* (such as the time frame, severity and circumstances surrounding the conviction) will be examined in terms of the student's ability to meet the requirements of the program as well as his/her eligibility to take the NCLEX exam. In reviewing background checks and drug screening, the Director or her/his designee may seek advice from university counsel, university police, or other appropriate advisors (e.g. California Board of Registered Nurses representatives; agency personnel). Evaluation of a *positive drug screen* will consider disclosure of medications used and the student's ability to safely meet the requirements of the program and our clinical agencies.

E. Results of the background check and drug screens will be made available to TVFSON School of Nursing and any clinical facility that requires this information, before a student may begin a clinical rotation. Should a clinical agency refuse to place a student based on the outcome of either the background check or drug screen, TVFSON is not obligated to arrange alternate clinical placements but will attempt to make such placements, if possible, on a case-by-case basis. If alternate placement is not possible, the student cannot continue in the nursing program. All background checks and drug screenings are considered confidential and are kept in a confidential location separate from the student's file.

F. Derogatory information of the following nature, which is obtained as the result of the background investigation will result in dismissal from the nursing program or keep an individual from being accepted into the program.

1. Any felony convictions including plea agreements to felony convictions
2. Sexual assault, rape, indecent exposure, lewd and lascivious behavior, or any crime involving nonconsensual sexual conduct committed
3. Child abuse, sexual exploitation of children, child abduction, child neglect, contributing to the delinquency or neglect of a child, enticing a child for immoral purposes, exposing a minor to pornography or other harmful materials, incest, or any other crime involving children as victims or participants committed at any time.
4. Any charge related to illegal drugs, such as (but not limited to) possession of drugs or paraphernalia, or trafficking.
5. Abuse, exploitation or neglect of a vulnerable adult (disabled or elderly) committed at any time.
6. Offenses involving substantial misrepresentation of any material fact to the public or an employer, including embezzlement, bribery, fraud, racketeering or allowing an establishment to be used for illegal purposes.

7. First or second degree arson
8. Kidnapping
9. Any offense in another state or country, the elements of which are substantially similar to the elements of the above offenses.
10. Multiple offenses including but not limited to repeat driving while intoxicated or wet and reckless convictions.

G. The procedures that are followed for students or applicants who are suspected of being under the influence of alcohol or drugs are contained in the student handbook.

H. *Rights.* Students and applicants have the right to review the information reported by the designated company for accuracy and completeness and to request that the designated company verify that the information provided is correct. If any applicant or student believes the information is inaccurate, he/she has the right to appeal the decision and request a review with TVFSON. It is the student or applicant's burden to produce substantial evidence to prove the reports are incorrect.

#### **IV. Review Standards**

In reviewing the background checks and drug screening results, the Director of TVFSON or designee in consultation with the Executive Committee will consider the following factors in making his/her determination of the student's ability to enter or progress in the program: the nature and seriousness of the offense or event and the relevant circumstances surrounding the offense or event. This determination will prioritize the safety interests of the patient and the clinical agencies where students are placed.

#### **V. Deferment**

A reviewing committee may extend an offer of admission for up to one semester while a matter is being resolved.

#### **VI. Other Provisions**

A. A background check and drug screening will be honored for the duration of the enrollment if: the student is continuously enrolled unless required more frequently by a clinical agency in which the student is placed; or there is reasonable suspicion that the student has violated the student guidelines related to drug and/or alcohol use/dependency or is convicted of one of the crimes listed above during his/her time in the program. A student who has a break in enrollment is required to complete a new background check and drug screening prior to his/her return to the clinical setting.

B. Falsification of information on background checks and drug screening, including omission of relevant information, may result in denial of admission or dismissal from the nursing program.

C. A student with a background check or drug screen issue will meet privately with the Director/Designee. A written statement may be requested and is required by some agencies. If allowed to remain in the nursing program, the student will be required to repeat background check and drug screening each semester thereafter.

## Appendix

### Rationale

A. Health care providers are entrusted with the health, safety and welfare of patients, have access to controlled substances, confidential information and operate in settings that require the exercise of good judgment and ethical behavior. Thus, an assessment of a student or applicant's suitability to function in such a setting is imperative to promote the highest level of integrity in health care services.

B. Clinical facilities are required by accreditation agencies, such as the Joint Commission on Accreditation of Healthcare Organization (JCAHO), to conduct background checks and drug screening for security purposes on individuals who provide services within the facility and especially those who supervise care and render treatment.

C. The Joint Commission on Accreditation of Healthcare Organization (JCAHO) Comprehensive Accreditation Manual for Hospitals 2004 added to their Human Resources Standards (HR.1.20) a section related to criminal background checks. The JCAHO standard requires agencies to include nursing students in criminal background checks when required by state law, regulation or hospital policy.

D. Clinical rotations are an essential element in nursing programs. Students who cannot participate in clinical rotations due to activities revealed in a background check or have illegal substances found in their drug screening are unable to fulfill the requirements of the program and may not be admitted to or may be removed from the program.

E. Additional information regarding "Applicants with Convictions" may be found at the California Board of Registered Nursing's website ([www.rn.ca.gov](http://www.rn.ca.gov)). Individuals are encouraged to refer to the Enforcement section including: <http://www.rn.ca.gov/enforcement/convictions.shtml> and <http://www.rn.ca.gov/pdfs/enforcement/appdocs.pdf>.

F. Please refer to the CABRN Regulations available at [www.rn.ca.gov](http://www.rn.ca.gov) that directly relate to licensure and convictions.

#### "1444. Substantial Relationship Criteria

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

Note:

Authority cited: Sections 481 and 2715, Business and Professions Code. Reference: Sections 480, 481, 2736, and 2761 Business and Professions Code. History: 1. New section filed 5-14-75; effective thirtieth day thereafter (Register 75, No. 20). 2. Amendment filed 9-27-85; effective thirtieth day thereafter (Register 85, No. 39). 3. Amendment of first paragraph, repealer of subsections (a)-(e), new subsections (a)-(d), and amendment of Note filed 6-6-2001; operative 7-6-2001 (Register 2001, No. 23).

#### 1444.5. Disciplinary Guidelines

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board shall consider the disciplinary guidelines entitled: "Recommended Guidelines for Disciplinary Orders and Conditions of Probation" (10/02) which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the board in its sole discretion determines that the facts of the particular case warrant such a deviation -for example: the presence of mitigating factors; the age of the case; evidentiary problems.

Note:

Authority cited: Section 2715, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 2750, 2759, 2761 and 2762, Business and Professions Code; and Sections 11400.20 and 11425.50(c), Government Code. HISTORY 1. New section filed 6-17-97; operative 6-17-97 pursuant to Government Codesection 11343.4(d) (Register 97, No. 25). 2. Amendment of "Recommended Guidelines for Disciplinary Orders and Conditions of Probation" (incorporated by reference) and amendment of section filed 6-14-2000; operative 7-14-2000 (Register 2000, No. 24). 3. Amendment of section and Notefiled 4-24-2003; operative 5-24-2003 (Register 2003, No. 17).

#### 1445. Criteria for Rehabilitation

(a) When considering the denial of a license under Section 480 of the code, the board, in evaluating the rehabilitation of the applicant and his/her present eligibility for a license will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant. (b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

Note:

Authority cited: Sections 482 and 2715, Business and Professions Code. Reference: Sections 483, 2736, 2761 and 2762, Business and Professions Code. History: 1. New section filed 5-25-73; effective thirtieth day thereafter (Register 73, No. 21). For history of former section, see Register 70, No. 5. 2. Renumbering from Section 1411 filed 3-26-74; effective thirtieth day thereafter (Register 74, No. 13). 3. Amendment of subsections (a) and (b) and new subsection (c) filed 5-14-75; effective thirtieth day thereafter (Register 75, No. 20). 4. Amendment filed 9-27-85; effective thirtieth day thereafter (Register 85, No. 39).