

§ 108C-4. (Effective until contingency met – see note) Criminal history record checks for certain providers.

(a) The Department shall conduct criminal history records checks of provider applicants and enrolled providers in accordance with federal law and regulation.

(b) The Division shall deny enrollment or terminate the enrollment of a provider where any person with a five percent (5%) or greater direct or indirect ownership interest in the provider has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or Health Choice program in the last 10 years, unless the Division determines that denial or termination of enrollment is not in the best interests of Medicaid and the State Medicaid agency documents that determination in writing. The Department shall honor civil and criminal settlement agreements entered into with a provider or any person with a five percent (5%) or greater direct or indirect ownership interest in the provider within 10 years of the effective date of this act.

(c) The Division may deny enrollment or terminate the enrollment of a provider subject to G.S. 108C-3(g) for any of the following offenses of the provider, an owner and/or operator, or employee if, after review of the seriousness, age, and other circumstances involving the offense, the Division determines it is in the best interest of the integrity of Medicaid or Health Choice to do so: any criminal offenses as set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive, Legislative, and Court Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. (2011-399, s. 1; 2015-181, s. 47.)

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(c) The Division may deny enrollment or terminate the enrollment of a provider subject to G.S. 108C-3(g) for any of the following offenses of the provider, an owner, an operator, or an employee if, after review of the seriousness, age, and other circumstances involving the offense, the Division determines it is in the best interest of the integrity of the North Carolina Medicaid program to do so:

- (1) Any criminal offenses as set forth in any of the following Articles of Chapter 14 of the General Statutes:
 - a. Article 5, Counterfeiting and Issuing Monetary Substitutes.
 - b. Article 5A, Endangering Executive, Legislative, and Court Officers.
 - c. Article 6, Homicide.
 - d. Article 7B, Rape and Other Sex Offenses.
 - e. Article 8, Assaults.
 - f. Article 10, Kidnapping and Abduction.
 - g. Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material.
 - h. Article 14, Burglary and Other Housebreakings.
 - i. Article 15, Arson and Other Burnings.
 - j. Article 16, Larceny.
 - k. Article 17, Robbery.
 - l. Article 18, Embezzlement.
 - m. Article 19, False Pretenses and Cheats.
 - n. Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means.
 - o. Article 19B, Financial Transaction Card Crime Act.
 - p. Article 20, Frauds.
 - q. Article 21, Forgery.
 - r. Article 26, Offenses Against Public Morality and Decency.
 - s. Article 26A, Adult Establishments.
 - t. Article 27, Prostitution.
 - u. Article 28, Perjury.
 - v. Article 29, Bribery.
 - w. Article 31, Misconduct in Public Office.
 - x. Article 35, Offenses Against the Public Peace.
 - y. Article 36A, Riots and Civil Disorders.
 - z. Article 39, Protection of Minors.
 - aa. Article 40, Protection of the Family.
 - bb. Article 59, Public Intoxication.
 - cc. Article 60, Computer-Related Crime.
- (2) Possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes.
- (3) Alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302.
- (4) Driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. (2011-399, s. 1; 2015-181, s. 47; 2022-74, s. 9D.15(l).)