

Samaritan Nurse Assistant Training Program

Please read the attached information from the Oregon State Board of Nursing and the Oregon Department of Human Services that explains the criminal records checks and policy.

This information includes:

- ❖ The cause for Denial, Reprimand, Suspension, Probation, or Revocation of a CNA Certificate
- ❖ The Oregon State Board of Nursing has determined reason for Denial of Certification
- ❖ Conduct unbecoming a Nursing Assistant
- ❖ Reasons for a Criminal disqualification

- 1 (8) The Department may also conduct a state-specific criminal records check instead of or in
2 addition to a national criminal records check. Reasons for a state-specific criminal
3 records check include but are not limited to:
- 4 (a) When the Department has reason to believe that out-of-state criminal records
5 may exist and a national criminal records check may not be accomplished.
- 6 (b) When the Department has been unable to complete a national criminal records
7 check due to illegible fingerprints.
- 8 (c) When the national criminal records check results show incomplete information
9 about charges or criminal records without final disposition.
- 10 (d) When there is indication of residency or criminal records in a state that does not
11 submit all criminal records to the FBI.
- 12 (e) When, based on available information, the Department has reason to believe
13 that a state-specific criminal records check is necessary.
- 14 (9) In order to complete a background check and fitness determination, the Department
15 may require additional information from the SI including but not limited to additional
16 criminal, judicial, other background information, or proof of identity.
- 17 (10) The Department may conduct a background check in situations of imminent danger.
- 18 (a) If the Department determines there is indication of criminal or abusive behavior
19 that could more likely than not pose an immediate risk to vulnerable individuals,
20 the Department shall conduct a new criminal records check on an SI without the
21 completion of a new background check request.
- 22 (b) If the Department determines that a fitness determination based on the new
23 background check would be adverse to the SI, the Department shall provide the
24 SI, if available, the opportunity to disclose criminal records, potentially
25 disqualifying conditions, and other information as indicated in OAR 407-007-
26 0300 before completion of the fitness determination.
- 27 (11) All criminal records checks conducted under this rule shall be documented in writing.
28

29 *Stat. Auth.: ORS 181.537, 409.027 & 409.050*
30 *Stats. Implemented: ORS 181.534, 181.537, 409.010*
31

32 **407-007-0275 Disqualifying Convictions Under ORS 443.004**

- 33 (1) The crimes listed in section (3) of this rule are disqualifying crimes for those employees
34 and individuals subject to ORS 443.004, and as specified in the relevant program

1 administrative rules. For the purpose of this rule, a subject individual does not include a
2 peer support specialist who:

- 3 (a) Is providing peer support services as defined by OAR 309-032-1505;
- 4 (b) Is under the supervision of a qualified clinical supervisor;
- 5 (c) Has completed training required by the Department; and
- 6 (d) Is currently receiving or has formerly received mental health services, or is in
7 recovery from a substance use disorder and meets the abstinence requirements
8 for staff providing services in alcohol or other drug treatment programs.

9 (2) Individuals who are employees and hired prior to July 28, 2009 are exempt from section
10 (3) of this rule provided that the employee remains in the same position working for the
11 same employer after July 28, 2009. This exemption is not applicable to licensees.

12 (3) Public funds may not be used to support, in whole or in part, the employment of an
13 individual in any capacity identified in section (1) of this rule who has been convicted:

- 14 (a) In the last 10 years of a crime involving the delivery or manufacture of a
15 controlled substance; or
- 16 (b) Of any of the following crimes:
 - 17 (A) ORS 163.095, Aggravated murder
 - 18 (B) ORS 163.115, Murder
 - 19 (C) ORS 163.118, Manslaughter I
 - 20 (D) ORS 163.125, Manslaughter II
 - 21 (E) ORS 163.145, Criminally negligent homicide
 - 22 (F) ORS 163.149, Aggravated vehicular homicide
 - 23 (G) ORS 163.165, Assault III
 - 24 (H) ORS 163.175, Assault II
 - 25 (I) ORS 163.185, Assault I
 - 26 (J) ORS 163.187, Strangulation
 - 27 (K) ORS 163.200, Criminal mistreatment II

- 1 (L) ORS 163.205, Criminal mistreatment I
- 2 (M) ORS 163.225, Kidnapping II
- 3 (N) ORS 163.235, Kidnapping I
- 4 (O) ORS 163.263, Subjecting another person to involuntary servitude II
- 5 (P) ORS 163.264, Subjecting another person to involuntary servitude I
- 6 (Q) ORS 163.266, Trafficking in persons
- 7 (R) ORS 163.275, Coercion
- 8 (S) ORS 163.355, Rape III
- 9 (T) ORS 163.365, Rape II
- 10 (U) ORS 163.375, Rape I
- 11 (V) ORS 163.385, Sodomy III
- 12 (W) ORS 163.395, Sodomy II
- 13 (X) ORS 163.405, Sodomy I
- 14 (Y) ORS 163.408, Unlawful sexual penetration II
- 15 (Z) ORS 163.411, Unlawful sexual penetration I
- 16 (AA) ORS 163.415, Sexual abuse III
- 17 (BB) ORS 163.425, Sexual abuse II
- 18 (CC) ORS 163.427, Sexual abuse I
- 19 (DD) ORS 163.432, Online sexual corruption of a child II, if the offender
20 reasonably believed the child to be more than five years younger than
21 the offender
- 22 (EE) ORS 163.433, Online sexual corruption of a child I, if the offender
23 reasonably believed the child to be more than five years younger than
24 the offender
- 25 (FF) ORS 163.435, Contributing to the sexual delinquency of a minor

- 1 (GG) ORS 163.445, Sexual misconduct, if the offender is at least 18 years of
2 age
- 3 (HH) ORS 163.465, Public indecency
- 4 (II) ORS 163.467, Private indecency
- 5 (JJ) ORS 163.525, Incest with a child victim
- 6 (KK) ORS 163.535, Abandonment of a child
- 7 (LL) ORS 163.537, Buying or selling a person under 18 years of age
- 8 (MM) ORS 163.670, Using a child in display of sexually explicit conduct
- 9 (NN) ORS 163.680, Paying for viewing a child's sexually explicit conduct
- 10 (OO) ORS 163.684, Encouraging child sexual abuse I
- 11 (PP) ORS 163.686, Encouraging child sexual abuse II
- 12 (QQ) ORS 163.687, Encouraging child sexual abuse III
- 13 (RR) ORS 163.688, Possession of materials depicting sexually explicit conduct
14 of a child I
- 15 (SS) ORS 163.689, Possession of materials depicting sexually explicit conduct
16 of a child II
- 17 (TT) ORS 163.700, Invasion of personal privacy
- 18 (UU) ORS 164.055, Theft I
- 19 (VV) ORS 164.057, Aggravated theft I
- 20 (WW) ORS 164.098, Organized retail theft
- 21 (XX) ORS 164.125, Theft of services, if charged as a felony
- 22 (YY) ORS 164.215, Burglary II
- 23 (ZZ) ORS 164.225, Burglary I
- 24 (AAA) ORS 164.325, Arson I
- 25 (BBB) ORS 164.377, Computer crime, if charged with a felony

- 1 (CCC) ORS 164.405, Robbery II
2 (DDD) ORS 164.415, Robbery I
3 (EEE) ORS 165.022, Criminal possession of a forged instrument I
4 (FFF) ORS 165.032, Criminal possession of a forgery device
5 (GGG) ORS 165.800, Identity theft
6 (HHH) ORS 165.803, Aggravated identity theft
7 (III) ORS 167.012, Promoting prostitution
8 (JJJ) ORS 167.017, Compelling prostitution
9 (KKK) ORS 167.054, Furnishing sexually explicit material to a child
10 (LLL) ORS 167.057, Luring a minor
11 (MMM) ORS 181.594, Sex crimes, including transporting child pornography into
12 the state
13 (c) Of an attempt, conspiracy, or solicitation to commit a crime described in section
14 (2)(b) of this rule; or
15 (d) Of a crime in another jurisdiction that is substantially equivalent to a crime
16 described in section (2)(b) of this rule.
17 (4) The Department may conduct a weighing test under ORS 181.534 on employees and
18 individuals convicted of any crime in section (3) of this rule. However, the preclusive
19 effect of ORS 443.004 shall outweigh all other factors described in OAR 407-007-0300.

20 *Stat. Auth.: ORS 181.534 & 409.050*
21 *Stats. Implemented: ORS 181.534 & ORS 443.004*
22

23 **407-007-0280 Potentially Disqualifying Convictions**

24 A conviction of any of the following crimes is potentially disqualifying. Offenses or convictions
25 that are classified as less than a misdemeanor, such as violations or infractions, are not
26 potentially disqualifying (see ORS 161.505 to 161.565).

- 27 (1) The crimes listed in this section are permanent review crimes which require that a
28 fitness determination be completed regardless of date of conviction.

- 1 (a) ORS 162.155, Escape II
- 2 (b) ORS 162.165, Escape I
- 3 (c) ORS 162.285, Tampering with a witness
- 4 (d) ORS 162.325, Hindering prosecution
- 5 (e) ORS 163.005, Criminal homicide
- 6 (f) ORS 163.095, Aggravated murder
- 7 (g) ORS 163.115, Murder
- 8 (h) ORS 163.118, Manslaughter I
- 9 (i) ORS 163.125, Manslaughter II
- 10 (j) ORS 163.145, Criminally negligent homicide
- 11 (k) ORS 163.149, Aggravated vehicular homicide
- 12 (L) ORS 163.160, Assault IV
- 13 (m) ORS 163.165, Assault III
- 14 (n) ORS 163.175, Assault II
- 15 (o) ORS 163.185, Assault I
- 16 (p) ORS 163.187, Strangulation
- 17 (q) ORS 163.190, Menacing
- 18 (r) ORS 163.200, Criminal mistreatment II
- 19 (s) ORS 163.205, Criminal mistreatment I
- 20 (t) ORS 163.207, Female genital mutilation
- 21 (u) ORS 163.208, Assault of public safety officer
- 22 (v) ORS 163.213, Unlawful use of an electrical stun gun, tear gas, or mace I
- 23 (w) ORS 163.225, Kidnapping II
- 24 (x) ORS 163.235, Kidnapping I

1	(y)	ORS 163.245, Custodial interference II
2	(z)	ORS 163.257, Custodial interference I
3	(aa)	ORS 163.263, Subjecting another person to involuntary servitude in the
4		second degree
5	(bb)	ORS 163.264, Subjecting another person to involuntary servitude in the
6		first degree
7	(cc)	ORS 163.266, Trafficking in persons
8	(dd)	ORS 163.275, Coercion
9	(ee)	ORS 163.355, Rape III
10	(ff)	ORS 163.365, Rape II
11	(gg)	ORS 163.375, Rape I
12	(hh)	ORS 163.385, Sodomy III
13	(ii)	ORS 163.395, Sodomy II
14	(jj)	ORS 163.405, Sodomy I
15	(kk)	ORS 163.408, Unlawful sexual penetration II
16	(LL)	ORS 163.411, Unlawful sexual penetration I
17	(mm)	ORS 163.415, Sexual abuse III
18	(nn)	ORS 163.425, Sexual abuse II
19	(oo)	ORS 163.427, Sexual abuse I
20	(pp)	ORS 163.432, Online sexual corruption of a child in the second degree
21	(qq)	ORS 163.433, Online sexual corruption of a child in the first degree
22	(rr)	ORS 163.435, Contributing to the sexual delinquency of a minor
23	(ss)	ORS 163.445, Sexual misconduct
24	(tt)	ORS 163.452, Custodial sexual misconduct I
25	(uu)	ORS 163.454, Custodial sexual misconduct II

1	(vv)	ORS 163.465, Public indecency
2	(ww)	ORS 163.467, Private indecency
3	(xx)	ORS 163.476, Unlawfully being in a location where children regularly
4		congregate
5	(yy)	ORS163.479, Unlawful contact with a child
6	(zz)	ORS 163.515, Bigamy
7	(aaa)	ORS 163.525, Incest
8	(bbb)	ORS 163.535, Abandonment of a child
9	(ccc)	ORS 163.537, Buying or selling a person under 18 years of age
10	(ddd)	ORS 163.545, Child neglect II
11	(eee)	ORS 163.547, Child neglect I
12	(fff)	ORS 163.555, Criminal nonsupport
13	(ggg)	ORS 163.575, Endangering the welfare of a minor
14	(hhh)	ORS 163.670, Using child in display of sexually explicit conduct
15	(iii)	ORS 163.680, Paying for viewing a child's sexually explicit conduct
16	(jjj)	ORS 163.684, Encouraging child sexual abuse I
17	(kkk)	ORS 163.686, Encouraging child sexual abuse II
18	(LLL)	ORS 163.687, Encouraging child sexual abuse III
19	(mmm)	ORS 163.688, Possession of materials depicting sexually explicit conduct
20		of a child I
21	(nnn)	ORS 163.689, Possession of materials depicting sexually explicit conduct
22		of a child II
23	(ooo)	ORS 163.693, Failure to report child pornography
24	(ppp)	ORS 163.700, Invasion of personal privacy
25	(qqq)	ORS 163.732, Stalking

1	(rrr)	ORS 163.750, Violating court's stalking protective order
2	(sss)	ORS 164.055, Theft I
3	(ttt)	ORS 164.057, Aggravated theft I
4	(uuu)	ORS 164.075, Theft by extortion
5	(vvv)	ORS 164.085, Theft by deception
6	(www)	ORS 164.098, Organized retail theft
7	(xxx)	ORS 164.125, Theft of services
8	(yyy)	ORS 164.135, Unauthorized use of a vehicle
9	(zzz)	ORS 164.170, Laundering a monetary instrument
10	(aaaa)	ORS 164.215, Burglary II
11	(bbbb)	ORS 164.225, Burglary I
12	(cccc)	ORS 164.315, Arson II
13	(dddd)	ORS 164.325, Arson I
14	(eeee)	ORS 164.365, Criminal mischief I
15	(ffff)	ORS 164.377, Computer crime
16	(gggg)	ORS 164.395, Robbery III
17	(hhhh)	ORS 164.405, Robbery II
18	(iiii)	ORS 164.415, Robbery I
19	(jjjj)	ORS 165.013, Forgery I
20	(kkkk)	ORS 165.022, Criminal possession of a forged instrument I
21	(LLLL)	ORS 165.032, Criminal possession of a forgery device
22	(mmmm)	ORS 165.055, Fraudulent use of a credit card
23	(nnnn)	ORS 165.065, Negotiating a bad check
24	(oooo)	ORS 165.581, Cellular counterfeiting I

1	(pppp)	ORS 165.800, Identity theft
2	(qqqq)	ORS 165.803, Aggravated identity theft
3	(rrrr)	ORS 165.810, Unlawful possession of a personal identification device
4	(ssss)	ORS 166.005, Treason
5	(tttt)	ORS 166.070 Aggravated harassment
6	(uuuu)	ORS 166.085, Abuse of corpse II
7	(vvvv)	ORS 166.087, Abuse of corpse I
8	(wwww)	ORS 166.155, Intimidation II
9	(xxxx)	ORS 166.165, Intimidation I
10	(yyyy)	ORS 166.220, Unlawful use of weapon
11	(zzzz)	ORS 166.270, Possession of weapons by certain felons
12	(aaaaa)	ORS 166.272, Unlawful possession of machine guns, certain short-
13		barreled firearms and firearm silencers
14	(bbbbb)	ORS 166.275, Possession of weapons by inmates of institutions
15	(ccccc)	ORS 166.370, Possession of firearm or dangerous weapon in public
16		building or court facility; exceptions; discharging firearm at school
17	(ddddd)	ORS 166.382, Possession of destructive device prohibited
18	(eeeee)	ORS 166.384, Unlawful manufacture of destructive device
19	(fffff)	ORS 166.429, Firearms used in felony
20	(ggggg)	ORS 166.450 Obliteration or change of identification number on
21		firearms
22	(hhhhh)	ORS 166.720, Racketeering activity unlawful
23	(iiiiii)	ORS 167.012, Promoting prostitution
24	(jjjjj)	ORS 167.017, Compelling prostitution
25	(kkkkk)	ORS 167.054, Furnishing sexually explicit material to a child

1	(LLLLL)	ORS 167.057, Luring a minor
2	(mmmmm)	ORS 167.062, Sadomasochistic abuse or sexual conduct in live show
3	(nnnnn)	ORS 167.075, Exhibiting an obscene performance to a minor
4	(ooooo)	ORS 167.080, Displaying obscene materials to minors
5	(ppppp)	ORS 167.212, Tampering with drug records
6	(qqqqq)	ORS 167.262, Adult using minor in commission of controlled substance
7		offense
8	(rrrrr)	ORS 167.315, Animal abuse II
9	(sssss)	ORS 167.320, Animal abuse I
10	(ttttt)	ORS 167.322, Aggravated animal abuse I
11	(uuuuu)	ORS 167.333, Sexual assault of animal
12	(vvvvv)	ORS 167.339, Assaulting law enforcement animal
13	(wwwww)	ORS 181.594, Sex crimes including transporting child pornography into
14		the state
15	(xxxxx)	ORS 181.599, Failure to report as sex offender
16	(yyyyy)	ORS 433.010, Spreading disease (willfully) prohibited
17	(zzzzz)	ORS 475.525, Sale of drug paraphernalia prohibited
18	(aaaaaa)	ORS 475.805, Providing hypodermic device to minor prohibited
19	(bbbbbb)	ORS 475.840, Prohibited acts generally (regarding drug crimes formerly
20		ORS 475.992)
21	(ccccc)	ORS 475.846, Unlawful manufacture of heroin
22	(dddddd)	ORS 475.848, Unlawful manufacture of heroin within 1,000 feet of
23		school
24	(eeeeee)	ORS 475.850, Unlawful delivery of heroin
25	(ffffff)	ORS 475.852, Unlawful delivery of heroin within 1,000 feet of school
26	(gggggg)	ORS 475.854, Unlawful possession of heroin

1	(hhhhh)	ORS 475.856, Unlawful manufacture of marijuana
2	(iiiiii)	ORS 475.858, Unlawful manufacture of marijuana within 1,000 feet of
3		school
4	(jjjjjj)	ORS 475.860, Unlawful delivery of marijuana
5	(kkkkkk)	ORS 475.862, Unlawful delivery of marijuana within 1,000 feet of school
6	(LLLLLL)	ORS 475.864, Unlawful possession of marijuana
7	(mmmmmm)	ORS 475.866, Unlawful manufacture of 3,4-
8		methylenedioxymethamphetamine
9	(nnnnnn)	ORS 475.868, Unlawful manufacture of 3,4-
10		methylenedioxymethamphetamine within 1,000 feet of school
11	(oooooo)	ORS 475.870, Unlawful delivery of 3,4-
12		methylenedioxymethamphetamine
13	(pppppp)	ORS 475.872, Unlawful delivery of 3,4-
14		methylenedioxymethamphetamine within 1,000 feet of school
15	(qqqqqq)	ORS 475.874, Unlawful possession of 3,4-
16		methylenedioxymethamphetamine
17	(rrrrrr)	ORS 475.876, Unlawful manufacture of cocaine
18	(ssssss)	ORS 475.878, Unlawful manufacture of cocaine within 1,000 feet of
19		school
20	(tttttt)	ORS 475.880, Unlawful delivery of cocaine
21	(uuuuuu)	ORS 475.882, Unlawful delivery of cocaine within 1,000 feet of school
22	(vvvvvv)	ORS 475.884, Unlawful possession of cocaine
23	(wwwwww)	ORS 475.886, Unlawful manufacture of methamphetamine
24	(xxxxxx)	ORS 475.888, Unlawful manufacture of methamphetamine within 1,000
25		feet of school
26	(yyyyyy)	ORS 475.890, Unlawful delivery of methamphetamine

1	(zzzzzz)	ORS 475.892, Unlawful delivery of methamphetamine within 1,000 feet
2		of school
3	(aaaaaaa)	ORS 475.894, Unlawful possession of methamphetamine
4	(bbbbbbb)	ORS 475.904, Unlawful delivery of controlled substance within 1,000
5		feet of school
6	(ccccccc)	ORS 475.906, Penalties for distribution to minors
7	(ddddddd)	ORS 475.908, Causing another person to ingest a controlled substance
8	(eeeeeee)	ORS 475.910, Application of controlled substance to the body of
9		another person
10	(fffffff)	ORS 475.914, Prohibited acts for registrants (with the Oregon State
11		Board of Pharmacy)
12	(ggggggg)	ORS 475.967, Possession of precursor substance with intent to
13		manufacture controlled substance
14	(hhhhhhh)	ORS 475.990, Commercial drug offense
15	(iiiiiii)	ORS 475.992 Prohibited acts generally (regarding drug crimes;
16		renumbered to ORS 475.840 in 2005)
17	(jjjjjjj)	ORS 677.080, Prohibited acts (regarding the practice of medicine)
18	(kkkkkkk)	ORS 685.990, Penalties (pertaining to naturopathic medicine)
19	(LLLLLLL)	ORS 689.527 Prohibited practices; rules (pertaining to pharmacy
20		technicians and practitioners)
21	(mmmmmmm)	Any federal crime
22	(nnnnnnn)	Any U.S. military crime
23	(oooooooo)	Any unclassified felony defined in Oregon Revised Statutes not listed in
24		this rule
25	(ppppppp)	Any other felony in Oregon Revised Statutes not listed in this rule that
26		is serious and indicates behavior that poses a threat or jeopardizes the
27		safety of vulnerable persons, as determined by the AD

- 1 (qqqqqqq) Any felony in a jurisdiction outside Oregon that is not the substantial
2 equivalent of any of the Oregon crimes listed in this section but that is
3 serious and indicates behavior that poses a threat or jeopardizes the
4 safety of vulnerable persons, as determined by the AD
- 5 (rrrrrrr) Any crime of attempt, solicitation, or conspiracy to commit a crime
6 listed in this section pursuant to ORS 161.405, 161.435, or 161.450,
7 including any crime based on criminal liability for conduct of another
8 pursuant to ORS 161.155
- 9 (sssssss) Any crime in any other jurisdiction that is the substantial equivalent of
10 any of the Oregon crimes listed in section (1) of this rule, as determined
11 by the AD
- 12 (ttttttt) Any crime that is no longer codified in Oregon or other jurisdiction but
13 that is the substantial equivalent of any of the crimes listed in section
14 (1) of this rule, as determined by the AD
- 15 (2) The crimes listed in this section are ten-year review crimes which require that a fitness
16 determination be completed if the date of conviction is within ten years of the date the
17 Background Check Request form was signed or the date the Department conducted a
18 criminal records check due to imminent risk.
- 19 (a) ORS 033.045, Contempt of court
- 20 (b) ORS 109.311, Prohibited fees-adoption
- 21 (c) ORS 133.076, Failure to appear on criminal citation
- 22 (d) ORS 133.310(3), Violation of restraining order
- 23 (e) ORS 135.290, Punishment by contempt of court (violation of release
24 agreement)
- 25 (f) ORS 162.015, Bribe giving
- 26 (g) ORS 162.025, Bribe receiving
- 27 (h) ORS 162.065, Perjury
- 28 (i) ORS 162.075, False swearing
- 29 (j) ORS 162.117, Public investment fraud

- 1 (k) ORS 162.145, Escape III
- 2 (L) ORS 162.175, Unauthorized departure
- 3 (m) ORS 162.185, Supplying contraband
- 4 (n) ORS 162.195, Failure to appear II
- 5 (o) ORS 162.205, Failure to appear I
- 6 (p) ORS 162.247, Interfering with a peace officer
- 7 (q) ORS 162.257, Interfering with a firefighter or emergency medical
8 technician
- 9 (r) ORS 162.265, Bribing a witness
- 10 (s) ORS 162.275, Bribe receiving by a witness
- 11 (t) ORS 162.295, Tampering with physical evidence
- 12 (u) ORS 162.305, Tampering with public records
- 13 (v) ORS 162.315, Resisting arrest
- 14 (w) ORS 162.335, Compounding
- 15 (x) ORS 162.355, Simulating legal process
- 16 (y) ORS 162.365, Criminal impersonation
- 17 (z) ORS 162.367, Criminal impersonation of peace officer
- 18 (aa) ORS 162.369, Possession of false law enforcement identification card
- 19 (bb) ORS 162.375, Initiating a false report
- 20 (cc) ORS 162.385, Giving false information to police officer for a citation
- 21 (dd) ORS 162.405, Official misconduct II
- 22 (ee) ORS 162.415, Official misconduct I
- 23 (ff) ORS 162.425, Misuse of confidential information
- 24 (gg) ORS 163.195, Recklessly endangering another person

1	(hh)	ORS 163.196, Aggravated driving while suspended or revoked
2	(ii)	ORS 163.212, Unlawful use of an electrical stun gun, tear gas, or mace II
3	(jj)	ORS 164.043, Theft III
4	(kk)	ORS 164.045, Theft II
5	(LL)	ORS 164.095, Theft by receiving
6	(mm)	ORS 164.138, Criminal possession of a rented or leased motor vehicle
7	(nn)	ORS 164.140, Criminal possession of rented or leased personal property
8	(oo)	ORS 164.162, Mail theft or receipt of stolen mail
9	(pp)	ORS 164.235, Possession of a burglary tool or theft device
10	(qq)	ORS 164.255, Criminal trespass I
11	(rr)	ORS 164.265, Criminal trespass while in possession of firearm
12	(ss)	ORS 164.272, Unlawful entry into motor vehicle
13	(tt)	ORS 164.354, Criminal mischief II
14	(uu)	ORS 165.007, Forgery II
15	(vv)	ORS 165.017, Criminal possession of a forged instrument II
16	(ww)	ORS 165.037, Criminal simulation
17	(xx)	ORS 165.042, Fraudulently obtaining a signature
18	(yy)	ORS 165.070, Possessing fraudulent communications device
19	(zz)	ORS 165.074, Unlawful factoring of credit card transaction
20	(aaa)	ORS 165.080, Falsifying business records
21	(bbb)	ORS 165.085, Sports bribery
22	(ccc)	ORS 165.090, Sports bribe receiving
23	(ddd)	ORS 165.095, Misapplication of entrusted property
24	(eee)	ORS 165.100, Issuing a false financial statement

1	(fff)	ORS 165.102, Obtaining execution of documents by deception
2	(ggg)	ORS 165.540, Obtaining contents of communication
3	(hhh)	ORS 165.543, Interception of communications
4	(iii)	ORS 165.570, Improper use of 9-1-1 emergency reporting system
5	(jjj)	ORS 165.572, Interference with making a report
6	(kkk)	ORS 165.577, Cellular counterfeiting III
7	(LLL)	ORS 165.579, Cellular counterfeiting II
8	(mmm)	ORS 165.692, Making false claim for health care payment
9	(nnn)	ORS 166.015, Riot
10	(ooo)	ORS 166.023, Disorderly conduct I
11	(ppp)	ORS 166.025, Disorderly conduct II
12	(qqq)	ORS 166.065, Harassment
13	(rrr)	ORS 166.076, Abuse of a memorial to the dead
14	(sss)	ORS 166.090, Telephonic harassment
15	(ttt)	ORS 166.116, Interfering with public transportation
16	(uuu)	ORS 166.180, Negligently wounding another
17	(vvv)	ORS 166.190, Pointing firearm at another
18	(www)	ORS 166.240, Carrying of concealed weapon
19	(xxx)	ORS 166.250, Unlawful possession of firearms
20	(yyy)	ORS 166.470, Limitations and conditions for sales of firearms
21	(zzz)	ORS 166.480, Sale or gift of explosives to children
22	(aaaa)	ORS 166.649, Throwing an object off an overpass II
23	(bbbb)	ORS 166.651, Throwing an object off an overpass I
24	(cccc)	ORS 166.660, Unlawful paramilitary activity

1	(dddd)	ORS 167.007, Prostitution
2	(eeee)	ORS 167.090, Publicly displaying nudity or sex for advertising purposes
3	(ffff)	ORS 167.122, Unlawful gambling in the second degree
4	(gggg)	ORS 167.127, Unlawful gambling in the first degree
5	(hhhh)	ORS 167.167, Cheating
6	(iiii)	ORS 167.222, Frequenting a place where controlled substances are
7		used
8	(jjjj)	ORS 167.325, Animal neglect II
9	(kkkk)	ORS 167.330, Animal neglect I
10	(LLLL)	ORS 167.337, Interfering with law enforcement animal
11	(mmmm)	ORS 167.340, Animal abandonment
12	(nnnn)	ORS 167.352, Interfering with assistance, search and rescue or therapy
13		animal
14	(oooo)	ORS 167.355, Involvement in animal fighting
15	(pppp)	ORS 167.365, Dogfighting
16	(qqqq)	ORS 167.370, Participation in dogfighting
17	(rrrr)	ORS 167.428, Cockfighting
18	(ssss)	ORS 167.431, Participation in cockfighting
19	(tttt)	ORS 167.820, Concealing the birth of an infant
20	(uuuu)	ORS 192.865, Criminal penalty (pertaining to Address Confidentiality
21		Program)
22	(vvvv)	ORS 314.075, Evading requirements of law prohibited (tax evasion)
23	(wwww)	ORS 411.630, Unlawfully obtaining public assistance
24	(xxxx)	ORS 411.640, Unlawfully receiving public assistance
25	(yyyy)	ORS 411.675, Submitting wrongful claim or payment (e.g., public
26		assistance)

1	(zzzz)	ORS 411.840, Unlawfully obtaining or disposing of food stamp benefits
2	(aaaaa)	ORS 412.074, Unauthorized use and custody of records of temporary
3		assistance for needy families program
4	(bbbbb)	ORS 412.099, Sharing assistance prohibited
5	(ccccc)	ORS 417.990, Penalty for placement of children in violation of compact
6	(ddddd)	ORS 471.410, Providing liquor to persons under 21 or to intoxicated
7		persons; allowing consumption by minor on property
8	(eeeee)	ORS 475.912, Unlawful delivery of imitation controlled substance
9	(fffff)	ORS 475.916, Prohibited acts involving records and fraud
10	(ggggg)	ORS 475.918, Falsifying drug test results
11	(hhhhh)	ORS 475.950, Failure to report precursor substances transaction
12	(iiiiii)	ORS 475.955, Failure to report missing precursor substances
13	(jjjjj)	ORS 475.960, Illegally selling drug equipment
14	(kkkkk)	ORS 475.965, Providing false information on precursor substances
15		report
16	(LLLLL)	ORS 803.230, Forging, altering or unlawfully producing or using title or
17		registration
18	(mmmmm)	ORS 807.620, Giving false information to police officer
19	(nnnnn)	ORS 811.060, Vehicular assault of bicyclist or pedestrian
20	(ooooo)	ORS 811.140, Reckless driving
21	(ppppp)	ORS 811.540, Fleeing or attempting to elude police officer
22	(qqqqq)	ORS 811.700, Failure to perform duties of driver when property is
23		damaged
24	(rrrrr)	ORS 811.705, Failure to perform duties of driver to injured persons
25	(sssss)	ORS 819.300, Possession of a stolen vehicle
26	(ttttt)	ORS 830.475, Failure to perform the duties of an operator (boat)

- 1 (uuuuu) Any unclassified misdemeanor defined in Oregon Revised Statutes not
2 listed elsewhere in this rule
- 3 (vvvvv) Any other misdemeanor in Oregon Revised Statutes not listed in this
4 rule that is serious and indicates behavior that poses a threat or
5 jeopardizes the safety of vulnerable persons, as determined by the AD
- 6 (wwwww) Any misdemeanor in a jurisdiction outside Oregon that is not the
7 substantial equivalent of any of the Oregon crimes listed in section (2)
8 of this rule but that is serious and indicates behavior that poses a threat
9 or jeopardizes the safety of vulnerable persons, as determined by the
10 AD. If a misdemeanor in a jurisdiction outside Oregon is similar to a
11 violation in Oregon, then it may not be considered potentially
12 disqualifying under this section.
- 13 (xxxxx) Any crime of attempt, solicitation or conspiracy to commit a crime
14 listed in this section pursuant to ORS 161.405 or 161.435, including any
15 conviction based on criminal liability for conduct of another pursuant to
16 ORS 161.155
- 17 (yyyyy) Any crime in any other jurisdiction which is the substantial equivalent
18 of any of the Oregon crimes listed in section (2) of this rule, as
19 determined by the AD
- 20 (zzzzz) Any crime which is no longer codified in Oregon, but which is the
21 substantial equivalent of any of the crimes listed in section (2) of this
22 rule, as determined by the AD
- 23 (3) The crimes listed in this section are five-year review crimes which require that a fitness
24 determination be completed if the date of conviction is within five years of the date the
25 Background Check Request form was signed or the date the Department conducted a
26 criminal records check due to imminent risk.
- 27 (a) ORS 162.085, Unsworn falsification
- 28 (b) ORS 162.235, Obstructing governmental or judicial administration
- 29 (c) ORS 164.245, Criminal trespass II
- 30 (d) ORS 164.335, Reckless burning
- 31 (e) ORS 164.345, Criminal mischief III

- 1 (f) ORS 165.555, Unlawful telephone solicitation of contributions for
2 charitable purposes
- 3 (g) ORS 165.813, Unlawful possession of fictitious identification
- 4 (h) ORS 166.075, Abuse of venerated objects
- 5 (i) ORS 166.095, Misconduct with emergency telephone calls
- 6 (j) ORS 811.182, Criminal driving while suspended or revoked
- 7 (k) ORS 813.010, Driving under the influence of intoxicants (DUII)
- 8 (L) ORS 830.315, Reckless operation of a boat
- 9 (m) ORS 830.325, Operating boat while under influence of intoxicating
10 liquor or controlled substance
- 11 (n) ORS 830.730, False information to peace officer or Oregon State Marine
12 Board
- 13 (o) Any conviction for attempt, solicitation or conspiracy to commit a crime
14 listed in this section pursuant to ORS 161.405 or 161.435, including any
15 conviction based on criminal liability for conduct of another pursuant to
16 ORS 161.155
- 17 (p) Any crime in any other jurisdiction which is the substantial equivalent
18 of any of the Oregon crimes listed in section (3) of this rule, as
19 determined by the AD
- 20 (q) Any crime which is no longer codified in Oregon, but which is the
21 substantial equivalent of any of the crimes listed in section (3) of this
22 rule, as determined by the AD
- 23 (4) Evaluations of crimes may be based on Oregon laws and laws in other jurisdictions in
24 effect at the time of the fitness determination, regardless of the jurisdiction in which the
25 conviction occurred.
- 26 (5) An SI may not be denied under these rules due to the existence or contents of a juvenile
27 record that has been expunged pursuant to ORS 419A.260 to 419A.262.
- 28 (6) An SI may not be denied under these rules due to the existence or contents of an adult
29 record that has been set aside pursuant to ORS 137.225.

1 *Stat. Auth.: ORS 181.537 & 409.050*
2 *Stats. Implemented: ORS 181.534, 181.537 & 409.010*
3

4 **407-007-0290** **Other Potentially Disqualifying Conditions**

5 The following are potentially disqualifying conditions:

- 6 (1) The SI makes a false statement to the QE, AD, or Department, including the provision of
7 materially false information, false information regarding criminal records, or failure to
8 disclose information regarding criminal records. Nondisclosure of violation or infraction
9 charges may not be considered a false statement.

- 10 (2) The SI is a registered sex offender in any jurisdiction. There is a rebuttable presumption
11 that an SI is likely to engage in conduct that would pose a significant risk to vulnerable
12 individuals if the SI has been designated a predatory sex offender in any jurisdiction
13 under ORS 181.585 or found to be a sexually violent dangerous offender under ORS
14 144.635 (or similar statutes in other jurisdictions).

- 15 (3) The SI has an outstanding warrant for any crime in any jurisdiction.

- 16 (4) The SI has a deferred sentence, conditional discharge, or is participating in a diversion
17 program for any crime in any jurisdiction.

- 18 (5) The SI is currently on probation, parole, or post-prison supervision for any crime in any
19 jurisdiction, regardless of the original conviction date (or date of guilty or no contest
20 plea if there is no conviction date).

- 21 (6) The SI has been found in violation of post-prison supervision, parole, or probation for
22 any crime in any jurisdiction, regardless of the original conviction date (or date of guilty
23 or no contest plea if there is no conviction date), within five years from the date the
24 background check request was signed or the date the Department conducted a criminal
25 records check due to imminent danger.

- 26 (7) The SI has an unresolved arrest, charge, or a pending indictment for any crime in any
27 jurisdiction.

- 28 (8) The SI has been arrested in any jurisdiction as a fugitive from another state or a fugitive
29 from justice, regardless of the date of arrest.

- 30 (9) The SI has an adjudication in a juvenile court in any jurisdiction, finding that the SI was
31 responsible for a potentially disqualifying crime that would result in a conviction if
32 committed by an adult. Subsequent adverse rulings from a juvenile court, such as
33 probation violations, shall also be considered potentially disqualifying if within five years
34 from the date the background check request was signed or the date the Department
35 conducted a criminal records check due to imminent danger.

- 1 (10) The SI has a finding of “guilty except for insanity,” “guilty except by reason of insanity,”
2 “not guilty by reason of insanity,” “responsible except for insanity,” “not responsible by
3 reason of mental disease or defect,” or similarly worded disposition in any jurisdiction
4 regarding a potentially disqualifying crime, unless the local statutes indicate that such
5 an outcome is considered an acquittal.
- 6 (11) Potentially disqualifying abuse as determined from abuse investigation reports which
7 have an outcome of founded, substantiated, or valid and in which the SI is determined
8 to have been responsible for the abuse.
- 9 (a) For SIs associated with child foster homes licensed through the Department’s
10 Seniors and People with Disabilities Division, child foster homes licensed through
11 a private licensed child caring agency, or adoptive families through a private
12 licensed child caring agency, potentially disqualifying abuse includes:
- 13 (A) Child protective services history held by the Department regardless of the
14 date of initial report or outcome;
- 15 (B) Child protective services history reviewed pursuant to the federal Adam
16 Walsh Act requirements, determined by BCU ADs to be potentially
17 disqualifying; and
- 18 (C) Adult protective services investigations of physical abuse, sexual abuse,
19 or financial exploitation initiated on or after January 1, 2010, as provided
20 to BCU by the Office of Investigation and Training and the Seniors and
21 People with Disabilities Division based on severity.
- 22 (b) For staff and volunteers of a private licensed child caring agency:
- 23 (A) Child protective services history held by the Department regardless of the
24 date of initial report or outcome; and
- 25 (B) Adult protective services investigations of physical abuse, sexual abuse,
26 or financial exploitation initiated on or after January 1, 2010, as provided
27 to BCU by the Office of Investigation and Training and the Seniors and
28 People with Disabilities Division based on severity.
- 29 (c) For child care providers and associated subject individuals defined in OAR 407-
30 007-0210(30)(a)(H);
- 31 (A) Child protective services history held by the Department regardless of the
32 date of initial report, date of outcome, and considered potentially
33 disqualifying pursuant to OAR 461-165-0420; and
- 34 (B) Adult protective services investigations of physical abuse, sexual abuse,
35 or financial exploitation initiated on or after January 1, 2010, as provided

1 to BCU by the Office of Investigation and Training and the Seniors and
2 People with Disabilities Division based on severity.

3 (d) For all other SIs, potentially disqualifying abuse includes founded or
4 substantiated adult protective services investigations of physical abuse, sexual
5 abuse, or financial exploitation initiated on or after January 1, 2010, as provided
6 to the BCU by the Office of Investigation and Training and the Seniors and People
7 with Disabilities Division based on severity.

8
9 *Stat. Auth.: ORS 181.537, 409.027 & 409.050*

10 *Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004*

11

12 **407-007-0300 Weighing Test**

13 When making a fitness determination, the AD shall consider any of the following factors if an SI
14 has potentially disqualifying convictions or conditions as disclosed by the SI or which is
15 otherwise known:

16 (1) Circumstances regarding the nature of potentially disqualifying convictions and
17 conditions including but not limited to:

18 (a) The details of incidents leading to the charges of potentially disqualifying
19 convictions or resulting in potentially disqualifying conditions.

20 (b) Age of the SI at time of the potentially disqualifying convictions or conditions.

21 (c) Facts that support the convictions or potentially disqualifying conditions.

22 (d) Passage of time since commission of the potentially disqualifying convictions or
23 conditions.

24 (e) Consideration of state or federal laws, regulations, or rules covering the position,
25 facility, employer, or QE regarding the potentially disqualifying convictions or
26 conditions.

27 (2) If applicable, circumstances regarding the nature of potentially disqualifying abuse
28 including but not limited to:

29 (a) Circumstances leading to the incident of abuse;

30 (b) The nature and type of abuse; and

31 (c) Other information gathered during the scope of the abuse investigation.

32 (d) The date of the abuse incident and abuse investigation, and the age of the SI at
33 the time of the abuse.