

Criminal Convictions that Bar Employment of Unlicensed Persons

Accessible Healthcare Solutions employs nonlicensed persons to work with our consumers. Per Louisiana Revised Statute 40:1203.3 the following criminal convictions bar employment without exception:

General Convictions

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|-------------|-----------------------------------|-------------|---|
| RS 14:28.1 | Solicitation for murder | RS 14:43.5 | Intentional exposure to aids virus |
| RS 14:30 | First degree murder | RS 14:44 | Aggravated kidnapping |
| RS 14:30.1 | Second degree murder | RS 14:44.1 | Second degree kidnapping |
| RS 14:31 | Manslaughter | RS 14:46.2 | Human trafficking |
| RS 14:32.6 | First degree feticide | RS 14:51 | Arson and use of explosives |
| RS 14:32.12 | Suicide | RS 14:60 | Burglary |
| RS 14:34 | Aggravated battery | RS 14:62.1 | Simple burglary of a pharmacy |
| RS 14:34.1 | Second degree battery | RS 14:64 | Armed robbery |
| RS 14:34.7 | Aggravated second degree battery | RS 14:64.1 | First degree robbery |
| RS 14:35.2 | Simple battery of the infirm | RS 14:64.4 | Second degree robbery |
| RS 14:37 | Aggravated assault | RS 14:66 | Extortion |
| RS 14:37.1 | Assault by drive-by shooting | RS 14:89 | Crime against nature |
| RS 14:37.4 | Aggravated assault with a firearm | RS 14:89.1 | Aggravated crime against nature |
| RS 14:38.1 | Mingling harmful substances | RS 14:93.3 | Cruelty to the infirmed |
| RS 14:42 | Aggravated rape | RS 14:93.4 | Exploitation of the infirmed |
| RS 14:42.1 | Forcible rape | RS 14:93.5 | Sexual battery of the infirm |
| RS 14:43 | Simple rape | RS 14:67 | Felony theft |
| RS 14:43.1 | Sexual battery | RS 14:67.21 | Theft of assets of an aged person or person with a disability in excess of \$500 (or) a previous conviction for theft at R.S.14:67 or R.S. 14:67.21 regardless of the amount. * |
| RS 14:43.2 | Second degree sexual battery | | |
| RS 14:43.3 | Oral sexual battery | | |

Distribution or possession with the intent to distribute controlled dangerous substances as listed in Schedules I through V of the Uniform Controlled Dangerous Substances Act. Statutory references for these convictions are as follows:

- 40:966 Penalty for distribution or 40:966 Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule 1
- 40:967 Prohibited acts – Schedule II penalties
- 40:968 Prohibited acts – Schedule III penalties
- 40:969 Prohibited acts – Schedule IV penalties
- 40:970 Prohibited acts - Schedule V penalties
- 40:971 Prohibited acts – all schedules

<p>For those hired to work with consumers under the age of 21, convictions of the following offenses are applicable:</p>

<p>RS 14:44.2 Aggravated kidnapping of a child RS 14:80.1 Misdemeanor carnal knowledge of a juvenile RS 14:81.2 Molestation of a juvenile or a person with a physical or mental disability RS 14:93 Cruelty to juveniles</p>

Theft - Additional Guidance

Under the law, convictions of theft may be deemed a felony or a misdemeanor depending upon the value placed on the funds, assets or property stolen. The criminal back ground check may show a conviction at R.S. 14:67 or R.S. 14:67.21 but not specify whether the conviction was a felony or misdemeanor. A felony conviction of theft would bar employment while a single conviction of misdemeanor theft would not. Vague or unclear charges will be considered unemployable and bar the individual from employment.

Employment would be barred for any of the following:

- (1) One conviction of felony theft.
- (2) One conviction of theft of assets of an aged person or a person with a disability over \$500.
- (3) Any previous conviction of theft that is not a felony.

This means that if an individual already has a conviction of theft of any amount such as a misdemeanor on their record and they are convicted a second time for theft regardless of the amount, they would be barred from employment.

If a criminal back ground check shows a conviction at R.S. 14:67 or R.S. 14:67.21 and it is unclear what the conviction is for, the employer must determine if the conviction for theft would be one that would bar employment. Ask the person applying for employment to produce additional evidence regarding the conviction.

The addition of criminal convictions of theft that bar employment was signed into law effective June 4, 2014. The law is applicable to all unlicensed persons or ambulance personnel applying for employment on or after June 4, 2014. Employees with a conviction of theft on their record who were working for an employer prior to June 4, 2014 can continue to work for that employer however, if they seek employment with another employer, the new employer would be restricted from hiring them.

Exception to the Law

There are no provisions in the law that allow Accessible Healthcare Solutions to use discretion to waive a conviction. The only exception now provided for is as follows:

A nonlicensed person or licensed ambulance personnel who are working under a waiver granted under the law that was in effect prior to August 15, 2010, may continue to work so long as that person continues to be employed by the employer who granted the waiver and the person began employment for the employer prior to August 15, 2010.

The provisions of the law that bar employment also do not apply to a person who has received a pardon of the conviction or has had his conviction expunged from his record. Documented court evidence of pardon or expungement should be kept in the employee's personnel file.