BACKGROUND STUDY DEFINITIONS

Disqualifying Offense: As defined in Minnesota (MN) Statutes, section 245C.14, subdivision 1 (a) (1 – 3):

1. A conviction of or admission (in court), or Alford plea to one or more crimes listed in section 245C.15, regardless of whether the conviction or admission is a felony, gross misdemeanor, or misdemeanor level crime.
2. A preponderance of the evidence indicates that the individual has committed an act or acts that meet the definition of any crime listed in section 245C.15, regardless of whether the conviction or admission is a felony, gross misdemeanor, or misdemeanor level crime.
3. An investigation results in an administrative determination listed under section 245C.15, subdivision 4, paragraph (b).

Conviction: As defined in MN Statutes, section 609.02, subdivision 5, conviction means any of the following accepted and recorded by the court:

1. A plea of guilt; or
2. A verdict of guilty by a jury or a finding of guilty by the court.

Felony: As defined in MN Statutes, section 609.02, subdivision 2, a felony is a crime for which a sentence of imprisonment for more than 1 year may be imposed.

Gross Misdemeanor: As defined in MN Statutes, section 609.02, subdivision 3, a gross misdemeanor means a crime which is not a felony or misdemeanor. The maximum fine which may be imposed for a gross misdemeanor is $ 3,000.00.

Misdemeanor: As defined in MN Statutes, section 609.02, subdivision 3, a misdemeanor means a crime for which a sentence of not more than 90 days or a fine of not more than $1000, or both, may be imposed.

Disqualification Period: MN Statutes, section 245C.15, identifies crimes or conduct that result in disqualifications. These disqualifications are divided into permanent, 15-year, 10-year, and 7-year disqualifications. Many factors determine the length of the disqualification period, including, if based on a conviction, whether an offense was sentenced as a felony, gross misdemeanor, or misdemeanor. The disqualification period is determined by the level of the sentence as discharged regardless of what the level of the original criminal charge was.

As defined in MN Statutes, section 245C.15, subdivision 1, paragraph (d); subdivision 2, paragraph (f); subdivision 3, paragraph (e); and subdivision 4, paragraph (e); when a disqualification is based on:

1. A judicial determination other than a conviction – the DQ period begins from the date of the court order.
2. An admission – the DQ period begins from the date of an admission in court.
3. A preponderance of evidence of a disqualifying act – the DQ period begins from the date of the dismissal, the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

Discharge of the sentence: When the entire sentence is completed. For example, if a crime occurred in 1997 and the individual committed an offense (example: controlled substance in the 2nd degree – MN Statutes, section 152.022) that was sentenced as a gross misdemeanor, which is a 10 year disqualification, the 10 years would begin from the date of discharge of the sentence. If the individual completed probation in 2001, the 10 year disqualification period would begin on the date the probation was completed in 2001.

Bars: As defined in MN Statutes, section 245C.24, subdivisions 2 – 4, bars in the disqualification process refer to a prohibition of the Commissioner's discretion to set aside the disqualification. There are three different types of bars including a permanent bar, a ten-year bar, and a seven-year bar. Please note that the Commissioner may grant a variance to the ten and seven-year

bars. When reviewing a request for reconsideration of a disqualification that has a ten or seven-year bar for FCC, CFC, AFC, and FADS programs where the services are provided in the provider's home, the Commissioner automatically makes a determination of whether a variance will be granted. Otherwise, variance must be requested by the program.

Permanent Bar: As defined in MN statutes, section 245C.24, subdivision 2, a permanent bar means that the Commissioner **may not set aside or grant a variance** to the disqualification of any individual disqualified pursuant to Chapter 245C, **regardless of how much time has passed**, if the individual was disqualified for an offense listed in section 245C.15, subdivision 1.

10-Year Bar: As defined in MN Statutes, section 245C.24, subdivision 3, a ten-year bar means that the Commissioner may not set aside the disqualification of an individual pursuant to Chapter 245C, if the individual was disqualified for a crime or conduct listed in section 245C.24, subdivision 3 and:

1. less than ten years has passed since the discharge of the sentence imposed, if any, for the offense; or
2. when disqualified based upon a preponderance of evidence determination under section 245A.14, subdivision 1, paragraph (a), clause (2), or an admission under section 245A.14, subdivision 1, paragraph (a), clause (1), and less than ten years has passed since the individual committed the act or admitted (in court) to committing the act, whichever is greater; and
3. the individual has committed a violation of any of the offenses listed in 245C.24, subdivision 3, paragraph (a), clause (3).

The commissioner also may not set aside the disqualification of an individual if less than ten years have passed since:

1. The individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in section 245C.24, subdivision 3, paragraph (a).
2. The discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in section 245C.24, subdivision 3, paragraph (a).

7-Year Bar: As defined in MN Statutes, section 245C.24, subdivision 4, a seven-year bar means that the commissioner may not set aside a maltreatment disqualification if within the seven years preceding the study, the individual has been a perpetrator of maltreatment of either a minor or a vulnerable adult, and the maltreatment resulted in substantial bodily harm as defined in Minnesota Statutes, section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence.

Lookback Period: The length of time for which an offense is a disqualification.

Recurring Maltreatment: As defined in MN Statutes, section 245C.02, subdivision 16, recurring maltreatment means more than one incident of maltreatment for which there is a preponderance of evidence that the maltreatment occurred and the subject was responsible for the maltreatment.

Serious Maltreatment: As defined in MN Statutes, section 245C.02, subdivision 18, serious maltreatment means sexual abuse, maltreatment resulting in death, maltreatment resulting in serious injury which reasonably requires the care of a physician whether or not the care of a physician was sought, or abuse resulting in serious injury.
(b) "care of a physician" is treatment received or ordered by a physician but does not include diagnostic testing, assessment, or observation.
(c) "abuse resulting in serious injury" means bruises, bites, skin laceration, or tissue damage; fractures; dislocations; evidence of internal injuries; head injuries with loss of consciousness; extensive 2nd or 3rd-degree burns and other burns for which complications are present; extensive 2nd or 3rd-degree frostbite and other frostbite for which complications are present; irreversible mobility or avulsion of teeth; injuries to the eyes; ingestion of foreign substances and objects that are harmful; near drowning; and heat exhaustion or sunstroke.
(d) serious maltreatment includes neglect when it results in criminal sexual conduct against a child or vulnerable adult.

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