



Department of Health

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Executive Deputy Commissioner

February 14, 2020

DAL: DAL 20-04
DHCBS 20-01
NH 20-01
SUBJECT: CHRC Requirements and Best
Practices

Dear Administrator:

This letter is being issued to ensure providers are aware of New York State Department of Health (the "Department") Criminal History Record Check (CHRC) requirements and provide best practices for the processing of CHRC requests.

Authorized Persons

- Individual(s) within the "Administrator" role are responsible for maintaining CHRC "Authorized Person" (AP) access. When entering the CHRC application, select "Manage AP" in the toolbar or the "Manage Authorized Persons" quick link to add and/or remove a CHRC "Authorized Person". Routine monitoring of CHRC AP access should be completed by the individual(s) within the "Administrator" role for continued compliance.
- Any designated AP may be contacted by the Department regarding the status of an employee. While providers are highly encouraged to assign more than one AP for backup purposes, providers are discouraged from having more than five assigned AP's.
- Only individuals designated as a CHRC "Authorized Person" may contact CHRC for status updates, inquiries, results, etc.

Submissions

- The name submitted within the CHRC application must be the exact same name/spelling on the valid photo id. Entering incorrect information may result in a delay or the individual being turned away for fingerprinting.
- Do not resubmit active employees. If an error in the submission is discovered, contact CHRC intake/program for resolution by calling 518.402.5549.

Timeframes

- A provider must immediately, but no later than 30 calendar days after the event, notify the Department when:
 - an individual is subject to CHRC via 103 submission; and
 - an individual is no longer subject to CHRC via 105 termination. Terminations include when an employee is no longer subject to CHRC; is no longer employed by the provider; employee death; or when a prospective employee is no longer being considered by the provider.

- Upon receipt of the request for fingerprint (LiveScan), an appointment must be scheduled for the employee to be fingerprinted, along with indication of the method of payment. The appointment may be scheduled through the web site or by telephone. Appointment scheduling should take 5-10 minutes and can be done by anyone working for the provider. It does not have to be done by the CHRC “Authorized Person”. No provider shall seek, directly or indirectly, to obtain from a prospective employee, temporary employee, or employee compensation in any form for the payment of the fees or any provider or facility costs associated with obtaining the criminal history record check.

Mandated Forms

- The DOH CHRC form 102: Acknowledgement and Consent for Fingerprinting and Disclosure of Criminal History Record Information must be signed by the prospective employee prior to submission. The completed and signed form shall be retained in the employee’s file.
- Submittals into the CHRC application are completed electronically via the “Submit” button in the CHRC application. Upon submittal, the CHRC “Authorized Person” will receive notification of the successful 103 submission; this confirmation must be printed and retained in the employee’s file.
- Terminations into the CHRC application are completed electronically via the “Terminate” button in the CHRC application. Upon termination, the CHRC “Authorized Person” will receive notification of the successful 105 termination; this confirmation must be printed and retained in the employee’s file.
- All CHRC documents, including, but not limited to the DOH CHRC form 102, 103 submission, and 105 termination must be available for inspection purposes.

Results

- Individuals must be supervised while awaiting CHRC clearance. Supervision requirements are specific to each licensure group and may be found at the following locations:
 - Residential Health Care Facilities: 10 NYCRR 402.4(b)(2)(i).
 - Certified Home Health Agencies, Licensed Home Care Services Agencies, and Long-Term Home Health Care Programs: 10 NYCRR 402.4(b)(2)(ii).
 - Adult Homes, Enriched Housing Programs, and Residences for Adults: 10 NYCRR 402.4(b)(iv).
 - Hospice: 10 NYCRR 402.4(b)(v).
 - Health Homes: Section 2899-a(10) of Public Health Law Article 28-E.
- Favorable CHRC legal determinations allow the individual to work without supervision. Individuals who receive a negative determination letter must be immediately removed from providing direct care.
 - Hold in Abeyance – Indicates the individual has open charges that are likely to result in a CHRC denial if there is a conviction. The individual must be immediately removed from providing direct care. The individual is responsible for contacting CHRC legal when the charges are resolved, at which time CHRC legal will revisit the case and make a final determination regarding employment eligibility.

- Pending Denial – Indicates the individual has criminal convictions that may result in a CHRC denial of employment eligibility. The individual must be immediately removed from providing direct care. The individual has thirty days to submit rehabilitation information to assist CHRC in making a final employment eligibility by CHRC.
- Final Denial – Indicates a final determination that the individual has been denied employment eligibility by CHRC.
- A subsequent arrest notification is provided for any previously checked employee who is arrested in New York State. The CHRC AP must conduct a risk assessment pursuant to all relevant law to determine whether the provider wishes to continue to employ the individual. To the extent that the CHRC AP has questions concerning this risk assessment it may be advisable for the AP to seek the advice of an attorney.

Quality Assurance

- The CHRC “Authorized Person” has access to a “Roster” in the CHRC application, providing various reports for quality assurance purposes. The CHRC “Authorized Person” is highly encouraged to utilize these reports to identify employee status, including approval/denied status, employees requiring supervision, and employees requiring a fingerprint.
- All read documents may be found within the “Document Viewer” under Show: All.
- The CHRC “Authorized Person” should contact CHRC if results have not been received.

Confidentiality

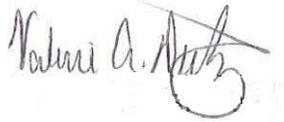
- Each Health Commerce System (HCS) user shall have their own user ID and password. The user ID and password may not be shared with others. The consequences of sharing an HCS account access are severe and can include revocation of the account. Multiple instances of violations that compromise the security of account usage may result in the inability of your organization to do business on the HCS.
- CHRC information must remain strictly confidential and be kept in a separate area that only the CHRC “Authorized Person” has access to. If a party willfully permits the release of any confidential criminal history information obtained from a criminal history record check not authorized to receive it in accordance with article 28-E of the Public Health Law, that party shall be guilty of a misdemeanor pursuant to section 845-b(3)(a) of the Executive Law and section 12-b of the Public Health Law.

Contact

- Preferred: “Contact CHRC” button within the CHRC application.
- Pre-fingerprint: Contact CHRC intake/program via telephone 518.402.5549 or e-mail CHRC@health.ny.gov if you have not received an update in your Document Viewer after 5-business days.
- Post-fingerprint: CHRC Legal: 518.408.1627 or CHRCLegal@health.ny.gov

Thank you for your continued cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Valerie A. Deetz". The signature is fluid and cursive, with a large, stylized initial "V".

Valerie A. Deetz, Deputy Director
Center for Health Care Provider Services and Oversight
Office of Primary Care and Health Systems Management

cc: M. Hennessey
J. Devik
N. Katz
H. Hayes
J. Huffaker
S. McGarvey