



Illinois Hospital Association

October 4, 2007

MEMORANDUM

TO: Chief Executive Officers, Member Institutions
Directors/Managers, Human Resources, Member Institutions

FROM: Kathleen Pankau, Staff Counsel

SUBJECT: Electronic Fingerprint Background Checks for New Hires

This memo explains the amendment to the **Health Care Worker Background Check Act** (the Act) in **Senate Bill 866**, now Public Act 95-0120, calling for electronic fingerprint based criminal history records check, coordinated through the Illinois Department of Public Health, on all new hires in health care facilities starting “October 1, 2007 or *as soon thereafter as is reasonably practical.*” The Department has announced, in several forums around the state, that facilities subject to the Act may continue to do UCIA name-based background checks on conditional new hires until such time as the electronic fingerprint process can be rolled out. Specific questions regarding the new fingerprinting process may be sent to the Department at dph.hcwr@illinois.gov or by calling 217-785-5133. Hospitals are encouraged to register sooner, rather than later, for access to the Department’s Health Care Worker Registry, before the actual fingerprint-based checks begin in their area.

The Timing of Public Act 95-0120

Public Act 95-0120 amends the Health Care Worker Background Check Act to require fingerprint-based background checks, instead of UCIA name-based background checks, on **unlicensed direct care staff.*** The amendment extends and expands a pilot program that was conducted in ten northern Illinois counties using “livescan” vendors who obtain the inkless, electronic fingerprints from new hires. For those facilities that did not participate

* In long term care facilities, any employee with access to a resident or a resident’s financial, medical or personal records must be screened.

October 5, 2007

Page 2

in the pilot program, PA 95-0120 will not become operational until the Department has signed contracts with livescan vendors in their area and has published rules, which will take some time. The Department plans to roll out the process by geographic regions over time and facilities will receive notification from the Department when their area goes "live."

Public Act 95-0120 Will Fully Automate the Background Check Process

Once this new fingerprint process is up and running, health care employers will only need to consult the Health Care Worker Registry (formerly called the Nurse Aide Registry) by using a secure login to the Registry's website. If a new hire's name is already on the Registry and a former employer has already conducted an *electronic* fingerprint background check, the new employer will *not* have to initiate and pay for any further criminal background check. The Registry will be constantly updated by reports from the Illinois State Police (ISP), a feature known as "Rap Back." Any new convictions since the last fingerprint-based background check will be sent to the Department by the ISP, and in turn, the Department will notify current employers if an employee has been convicted of an offense that would disqualify him or her, under the Act, from continuing to work in a health care facility.

A trained Department employee will review each conviction that the ISP sends to the Department, and will determine whether the conviction is a disqualifying offense under the Health Care Worker Background Check Act. Therefore, employers will no longer have to guess whether a certain conviction disqualifies a new hire or not. The Department will send an automatic waiver if the worker meets the criteria for a waiver of the prohibition on hiring, but new hires may also apply for a waiver if one is not granted automatically.

If a new hire's name is not yet on the Registry, or the name is there, but the background check did not include an *electronic* fingerprint-based check, then the new health care employer will have to initiate the electronic fingerprint background check. Thereafter, the employer must annually notify the Department that an employee is still working for the employer and again, whenever a Registry employee is hired or terminated.

Public Act 95-0120 Requires Internet Checks on New Hires

Under the Act, a health care employer may conditionally employ an applicant for up to three months pending the results of a fingerprint-based criminal history records check. As a result of this lag time, Public Act 95-0120 requires employers to conduct Internet searches to make sure an applicant is not a sex offender or a past prison inmate, or has committed Medicare and Medicaid fraud. Facilities should implement this aspect of Public Act 95-0120 as soon as practical. The websites listed in the amendment that should be checked include:

October 5, 2007

Page 3

- Illinois Sex Offender Registry
www.isp.state.il.us/sor
- Department of Corrections Sex Offender Search Engine
www.idoc.state.il.us
- Department of Corrections' Inmate Search Engine
www.idoc.state.il.us
- Department of Corrections Wanted Fugitives Search Engine
www.idoc.state.il.us
- National Sex offender Public Registry
www.sexcriminals.com/registration-notification
- U.S. Department of Health and Human Services Office of Inspector General
www.oig.hhs.gov

Public Act 95-0120 Requires Additional Record Keeping

When a new background check will be required for a new hire, the facility must have him or her sign an authorization form for the Department to request a fingerprint-based criminal history records check. (The Department, as opposed to the employer, must request the records check from the ISP in order to have access to this "Rap Back" feature.) A disclosure statement must also be given to the new hire. These forms, as well as the livescan report form and all other notices, must be retained in the employee file for the duration of the individual's employment. The statute specifically requires that records of criminal records *requests* be kept for 5 years.

Summary

Public Act 95-0120 has not yet been implemented for facilities that did not participate in the electronic fingerprint pilot program. Until the Department of Public Health has issued rules and implemented the electronic fingerprint process, healthcare facilities that are subject to the Health Care Worker Criminal Background Check Act should continue to obtain name-based criminal background checks in the same manner as always. Facilities may choose to register now for inclusion on the Health Care Worker Registry, which will aid the implementation of the process. To register your facility, one person from Human Resources should be designated to act as a liaison with IDPH IT Security. For questions regarding the registration process, contact the Department's Brenda Richards, IT Security, at Brenda.richards@illinois.gov or 217-782-4575.

To speak to an IHA staff person about the contents of this memo, contact Kathleen Pankau at 630-276-5598 or kpankau@ihastaff.org.