



STATE OF NEW YORK DEPARTMENT OF HEALTH

161 Delaware Avenue

Delmar, New York 12054

Richard F. Daines, M.D.
Commissioner

April 11, 2007

DAL/DQS #07-03

Subject: Adult Day Home Care Programs
Criminal History Record Check (CHRC)
Program

Dear Administrator:

This letter is being issued to provide residential health care facilities with adult day health care programs (ADHCPs), residential health care facilities, certified home health agencies, licensed home care service agencies, and long term home health care programs (covered providers), with additional information concerning the Criminal History Record Check (CHRC) Program implemented on September 1, 2006. Please read this letter carefully since it contains important information.

Adult Day Home Care Programs (ADHCP): CHRC responsibilities

Under Public Health Law (PHL) §2899(6), a residential health care facility (Nursing Home) is defined as a covered provider subject to the statutory and regulatory requirements of the CHRC program. A nursing home is defined under §2801(2) and includes a description of the services provided to residents and persons who are not occupants of the facilities. Nursing homes with programs serving persons who are not occupants are referred to as ADHCPs.

The Department of Health CHRC Unit and CAMU Unit, which handles the HPN Communications Directory, have combined efforts to set up ADHCP's under their own organizational type (52). This organization type provides the ability for the CHRC AP of such ADHCP providers to submit fingerprint cards to the CHRC unit under its PFI number/organizational type and receive the criminal history employment determinations via the HPN.

Please follow the instructions shown below to initiate your HPN/CHRC account:

- Acquire an HPN account linked to your PFI number;
- Complete DOH CHRC 100 Agency Request form and mail to NYS Department of Health, CHRC Unit, PO Box 26607, Albany, NY 12220-0607;

- Complete and notarize CHRC 101, Authorized Person (AP) Designation form identifying the names of at least two (2) employees who will be responsible for submission of requests and receipt of information from the CHRC Unit mail to NYS Department of Health, CHRC Unit, PO Box 26607, Albany, NY 12220-0607;
- Acquire unique email addresses for the CHRC APs;
- Acquire HPN accounts for each CHRC AP; and
- Assign the CHRC AP role in the HPN Communications Directory for the appropriate individuals identified on the CHRC 101 form. The HPN Coordinator(s) at your location are responsible for updating the HPN Communications Directory.

Supervision

As a reminder, the covered provider must comply with the supervisory requirements as outlined in the CHRC regulations while the result of the criminal background check is pending. Additional information regarding the supervision requirements can be found on the CHRC HPN Web Page at: <http://commerce.health.state.ny.us/hpn/hco/chrc.shtml>

Individuals covered by the CHRC Statute

The issue of which prospective employees of a covered provider must have a CHRC has been raised. The statute provides that unlicensed employees who have direct care or supervision of patients or residents are subject to the CHRC. Direct care and supervision is defined below. Please note, providers must make a good faith attempt to seek criminal history record checks only for those employees who are covered by the definition or risk losing immunity from civil or criminal liability as provided for under Executive Law Section 845-b(9). An example of not making a good faith attempt would include requesting criminal background checks by the Department for all unlicensed employees, regardless of their job duties.

Subject Individual direct care or supervision of patients or clients shall mean:

- i. Nursing Home – Any unlicensed person employed by or used by a nursing home who has physical access to residents receiving services or access to a resident’s personal property; or any unlicensed person providing face-to-face care in accordance with the resident’s plan of care.
- ii. Home Care – Any unlicensed person providing face-to-face care following the paraprofessional plan of care developed for the individual patient in accordance with 10 NYCRR Section 700.2

Questions regarding the CHRC program can be e-mailed to:

CHRC@health.state.ny.us

Legal questions can be e-mailed to:

CHRCLEGAL@health.state.ny.us

Sincerely,

A handwritten signature in cursive script that reads "Keith W. Servis". The signature is written in black ink on a light-colored background.

Keith W. Servis, Director
Division of Quality and Surveillance
For Nursing Homes and ICFs/MR