Health Care Worker Background Check

As reviewed in the two previous newsletters from March 27 and April 3, the Illinois Department of Public Health (IDPH) adopted sweeping amendments to the employee Health Care Worker Background Check Rules. The new adopted regulations will phase in the fingerprinting of all new unlicensed employees. It is expected that the Department will begin phasing in the fingerprint check program for new unlicensed employees sometime this summer, most likely starting with the ten northern counties that had participated in the federal fingerprint pilot project two years ago. Training will be done by IDPH with the facilities in each area prior to the fingerprint program being implemented.

In the March 27th newsletter we provided an overview of the changes with these proposed regulations. In the April 3rd newsletter we examined some of the operational implications for facilities, including that does and does not need a fingerprint check and using the Health Care Worker Registry. This week we will review the fingerprinting process and documentation requirements. Next week we will conclude with a review of disqualifying offenses and waivers.

The Fingerprint Process:

Before hiring a new employee, a facility must check the Health Care Worker Registry. According to Section 955.115:

“Fingerprint-based criminal history records checks shall be initiated through the Department’s web application used for the Health Care Worker Registry. The direct care employer or its designee must log into the Health Care Worker Registry through a secure login.

Educational entities and health care employers shall gain access to the secure login by having an employee register for access to the Department’s secure web portal. After the Department has authorized initial access, that employee may authorize other employees or a designee access to the secure web portal.

When educational entities and health care employers are required in this Part to transmit information electronically to the Department, the data shall be entered into the Health Care Worker Registry web application. The information shall be electronically transmitted to the Department when the data record is saved.

To better provide support and instruction, the Department will bring a limited number of educational entities and health care employers into the fingerprint process at one time. The Department will proceed across the State using such indicators and zip codes and county boundaries.”

Once a facility is phased into the fingerprint background process later this year by IDPH, one of three situations will exist for a potential new employee:
- The **person is on the Registry and has had a previous fingerprint check** (as indicated by “FEE DPP” or “CAAPP”): The facility then prints out that screen and the screen from the initiation page indicating you checked the offender website links, puts them in the employee’s file – and you’re done with criminal background checking for that employee.
- The **person is active on the Registry but has not had a previous fingerprint check**: A fingerprint check process has to be initiated.
- The **person is not on the Registry**: The facility is responsible for entering the person on the Registry and initiating the fingerprint check process.

For new employees who need to be fingerprinted, the **first step** is to provide the employee with a Disclosure and Authorization Form, to allow the Department of Public Health to request and receive information and assistance from the State Police, and to post the results on the Health Care Worker Registry. The Disclosure and Authorization Form may be printed from the Health Care Worker Registry Web site. The standard authorization form will not only authorize a fingerprint check, but says the employee may be terminated for not disclosing everything on the Authorization Form that may be found as a result of the background check. This allows employers a first line of inquiry even before the facility incurs the cost of the fingerprint check. If a person indicates on the Authorization Form that there is a disqualifying offense, the facility can decide not to proceed with hiring even before the background check is done.

Once the applicant has signed the Disclosure and Authorization Form, Section 955.165(g) requires: “An educational entity or health care employer shall electronically submit to the Department of Public Health the student’s, applicant’s or employee’s social security number, demographics, disclosure and authorization information in a format prescribed by the Department of Public Health within 2 working days after the authorization is secured.”

Once the information on the applicant is entered or updated on the Registry, the facility will be able to print out a Livescan Request Form from the Registry web site, with the applicant’s name and address already pre-printed on it. The facility then gives the Livescan Request Form to the applicant to bring to the livescan vendor. **The livescan vendor will not collect fingerprints for background check purposes without the Livescan Request Form.**

Then, according to 955.165(h), “The student, applicant, or employee shall go to a livescan vendor contracted under the provisions of the Act and have his or her fingerprints collected electronically and transmitted to the Department of State Police within 10 working days after signing the authorization and disclosure form.

The student, applicant, or employee shall bring the portion of the livescan request form that is completed by the livescan vendor back to the educational entity or health care employer as proof that his or her fingerprints have been collected. **The educational entity or health care employer shall provide the transaction control number, obtained from this portion of the livescan request form, whenever any follow-up inquiries are made about the progress of the background check being processed.**

If the student, applicant or employee does not go to a livescan vendor contracted under the provisions of the Act and have his or her fingerprints collected electronically **within 10 working days, the individual shall be suspended from participating in a training program if a student, or suspended from working if an employee,** until such time as proof is provided that the individual has had his or her fingerprints collected electronically from a contracted livescan vendor.

If the student, applicant, or employee has not had his or her fingerprints collected electronically by a contracted vendor **within 30 days after being hired or beginning a training program, the employee shall be terminated or the student dropped from the training program.** The educational entity or health care employer shall withdraw the background check application from the Health Care Worker Registry.”
Fingerprint Rejections:

“If the fingerprints are rejected by the Department of State Police, the student, applicant or
employee shall go to a livescan vendor contracted under the provisions of the Act and have his or
her fingerprints collected electronically a second time.” The employee should take the rejection e-
mail sent to the facility along with a second Livescan Request Form. There will be no fee charged
for the second set of fingerprints.

“If the fingerprints are rejected by the Department of State Police a second time, the education
entity or health care employer shall conduct a complete name-based UCIA criminal history records
check through the Department of State Police and mail a copy of the results of the background
check to the Department within 10 working days after receipt. The results of the UCIA criminal
history records check shall have been issued by the Department of State Police no earlier than 31
days prior to hire. A UCIA name-based criminal history records check may be used only when
there is proof that the individual's fingerprints have been rejected twice by the Department of State
Police within the previous 12 months.”

The first fingerprint attempt must be done within 10 days of signing the authorization. There are no
specified time frames for the second fingerprints or the UCIA name-based check, but “A health
care employer or long term care facility may conditionally employ an applicant for up to three
months pending the results of a fingerprint-based criminal history records check request by the
Department of Public Health. During this time, the employee shall have adequate supervision,
which is the type and frequency of supervision required to prevent abuse, neglect, or theft
regarding patients, clients or residents.” If the results of the background check process are not
completed and received within three months, the employee would have to be suspended until the
results are received.

Required Documentation:

According to Section 955.220:

a) The health care employer shall retain on file for a period of 5 years records of criminal records
requests for all employees. The health care employer shall retain a copy of the disclosure and
authorization forms, a copy of the livescan request form, all notifications resulting from the
fingerprint-based criminal history records check and waiver, if appropriate, for the duration of
the individual’s employment. The files shall be subject to inspection by the Department. A fine of
$500 shall be imposed for failure to maintain these records.

b) If the Health Care Worker Registry indicates that the employee had no disqualifying criminal
offense or administrative findings at the time of hire, then the health care employer shall retain a
screen print of this information in the employee’s file. If the individual was not on the Health
Care Worker Registry prior to being hired, then a screen print indicating that the worker was not
found shall be retained in the employee’s file.

c) The health care employer shall retain a screen print of the background check initiation page,
which documents that the employer did conduct an internet search of the web sites from the links
provided through the Health Care Worker Registry and found no results from those web site that
would prevent the employee from being hired. No additional screen prints from those web site
shall be required in the employee’s file.”

This new employee fingerprint program is not yet in effect and will gradually be phased in
statewide over the next year. You will be informed by IDPH and your associations regarding the
timetable for replacing your UCIA name-based background check with the livescan vendor
fingerprint program in your area. As with the federal pilot project, it can be expected that IDPH will
be conducting training sessions in your area just prior to implementing the program. Until such
time, facilities should continue to do UCIA background checks as required under current
law and regulations.