# Who is Required to have a fingerprint background check under the Health Care Worker Background Check Act?

Those facilities governed by the Health Care Worker Background Check Act must ensure that a fingerprint background check, initiated as a fee applicant inquiry to the Illinois State Police, has been conducted on the following:

- LONG-TERM CARE FACILITIES all unlicensed individuals that have access or may have access to the resident, the resident's living quarters, or the resident's financial, medical, or personal records.
- OTHER HEALTH CARE EMPLOYERS LISTED IN THE ACT all unlicensed individuals that provide direct care.

DIRECT CARE – is defined as the provision of nursing care or assistance with feeding, dressing, movement, bathing, toileting, or other personal needs, including home services as defined in the Home Health, Home Services, and Home Nursing Agency Licensing Act.

The health care facility may choose to conduct a fingerprint background check for its current employees, licensed individuals and volunteers but the facility is not required to by law. Only newly hired individuals or contracted individuals that fit in the above category are required to have a fingerprint background check.

#### Why a FEE APP Background Check

Under the provisions of the Health Care Worker Background Check Act, a health care employer is required to do the fingerprint background check initiated through the Registry's web application. Any other background check is conducted under the UCIA law and is just for that specific point in time, where the FEE\_APP background check is ongoing. The Illinois State Police retain the fingerprints submitted under this Registry's system and will send a notification to IDPH if there are any convictions in the future that are associated to these fingerprints. By entering the employment information in the Registry's web application, as required by law, the computer system knows what facility the individual is working for and will send an email notification to that facility. If the convictions are disqualifying, the facility will be required to terminate the individual. This is why you do not need to initiate a fingerprint background check for the Illinois State Police through the registry if the individual already has a FEE\_APP background check, as it is ongoing. For this reason, a UCIA name or UCIA fingerprint background check is no longer allowed, unless the fingerprints are rejected twice.

# Section 955.100 Applicability

This Part *applies to all* unlicensed *individuals employed or retained by a health care employer as home* health care aides, nurse aides, personal care assistants, private duty nurse aides, day training personnel, or an individual working in any similar health-related occupation where he or she provides direct care (e.g., resident attendants, child care/habilitation aides/developmental disabilities aides, and psychiatric rehabilitation services aides) or has access to long-term care residents or the living quarters or financial, medical, or personal records of long-term care residents. This Part also applies to all unlicensed employees of licensed or certified long-term care facilities who have or may have contact with residents or access to the living quarters or the financial, medical, or personal records of residents. (Section 10 of the Act)

#### Section 955.135 Contracted or Subcontracted Workers

- a) Any unlicensed contracted or subcontracted worker shall undergo a fingerprint-based criminal history records check through the processes established in the Act and this Part.
- b) A staffing agency may request access to the secure web portal and initiate fingerprintbased criminal history records checks for staff that will be contracted or subcontracted to a health care employer in the same manner and following the same requirements as a health care employer.
- c) If a staffing agency is unable to have access to the fingerprint process established through the Act, the health care employer may initiate the fingerprint-based criminal history records check for the staffing agency. The health care employer may require the staffing agency to reimburse the health care employer for any fingerprint-based criminal history records check expenses incurred.

(Source: Added at 33 Ill. Reg. 5378, effective March 26, 2009)

## Section 955.130 Exceptions

- a) The Act and this Part shall not apply to:
  - 1) An individual who is licensed by the Department of Financial and Professional Regulation or the Department of Public Health under another law of this State;
  - 2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State;
  - 3) A student in a health care field licensed by the Department of Financial and Professional Regulation, including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student, unless he or she is employed by a health care employer in a position with duties involving direct care for clients, patients, or residents or employed by a long-term care facility in a position that involves or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents (Section 20 of the Act); or
  - 4) A person who is employed or under contract with a health care provider to provide infrequent or occasional services, such as delivering items to the provider, equipment maintenance, grounds keeping, construction, or other similar services that are not directly related to the care of a resident, client or patient.
- As long as the individual is notified that the results of the fingerprint-based criminal history records check will be entered on the Health Care Worker Registry and the individual signs an authorization and disclosure form, nothing in this Section prohibits an educational entity, staffing agency, or health care employer from initiating a fingerprint-based criminal history records check for an individual who is:
  - 1) Licensed by the Department of Financial and Professional Regulation;
  - 2) Studying in a health care field licensed by the Department of Financial and Professional Regulation;

- 3) Licensed by the Department of Public Health under another law of this State; or
- 4) A volunteer.

## 225 ILCS 46/15)

#### Sec. 15. Definitions. In this Act:

#### "Health care employer" means:

- (1) the owner or licensee of any of the following:
  - (i) a community living facility, as defined in the Community Living Facilities Act;
  - (ii) a life care facility, as defined in the Life
    - Care Facilities Act;
  - (iii) a long-term care facility;
  - (iv) a home health agency, home services agency,
- or home nursing agency as defined in the Home Health, Home Services, and Home Nursing Agency Licensing Act;
  - (v) a hospice care program or volunteer hospice

program, as defined in the Hospice Program Licensing Act;

(vi) a hospital, as defined in the Hospital

Licensing Act:

- (vii) (blank);
- (viii) a nurse agency, as defined in the Nurse

Agency Licensing Act;

(ix) a respite care provider, as defined in the

Respite Program Act;

(ix-a) an establishment licensed under the

Assisted Living and Shared Housing Act;

- (x) a supportive living program, as defined in the Illinois Public Aid Code;
- (xi) early childhood intervention programs as described in 59 Ill. Adm. Code 121;
- (xii) the University of Illinois Hospital,

Chicago;

(xiii) programs funded by the Department on Aging

through the Community Care Program;

(xiv) programs certified to participate in the

Supportive Living Program authorized pursuant to Section 5-5.01a of the Illinois Public Aid Code;

- (xv) programs listed by the Emergency Medical
- Services (EMS) Systems Act as Freestanding Emergency Centers;
  - (xvi) locations licensed under the Alternative

Health Care Delivery Act;

(2) a day training program certified by the

Department of Human Services;

- (3) a community integrated living arrangement
- operated by a community mental health and developmental service agency, as defined in the Community-Integrated Living Arrangements Licensing and Certification Act; or
  - (4) the State Long Term Care Ombudsman Program,

including any regional long term care ombudsman programs under Section 4.04 of the Illinois Act on the Aging, only for the purpose of securing background checks.

"Initiate" means obtaining from a student, applicant, or employee his or her social security number, demographics, a disclosure statement, and an authorization for the Department of Public Health or its designee to request a fingerprint-based criminal history records check; transmitting this information electronically to the Department of Public Health; conducting Internet searches on certain web sites, including without limitation the Illinois Sex Offender Registry, the Department of Corrections' Sex Offender Search Engine, the Department of Corrections Wanted Fugitives Search Engine, the National Sex Offender Public Registry, and the website of the Health and Human Services Office of Inspector General to determine if the applicant has been adjudicated a sex offender, has been a prison inmate, or has committed Medicare or Medicaid fraud, or conducting similar searches as defined by rule; and having the student, applicant, or employee's fingerprints collected and transmitted electronically to the Department of State Police.

"Livescan vendor" means an entity whose equipment has been certified by the Department of State Police to collect an individual's demographics and inkless fingerprints and, in a manner prescribed by the Department of State Police and the Department of Public Health, electronically transmit the fingerprints and required data to the Department of State Police and a daily file of required data to the Department of Public Health. The Department of Public Health shall negotiate a contract with one or more vendors that effectively demonstrate that the vendor has 2 or more years of experience transmitting fingerprints electronically to the Department of State Police and that the vendor can successfully transmit the required data in a manner prescribed by the Department of Public Health. Vendor authorization may be further defined by administrative rule.

"Long-term care facility" means a facility licensed by the State or certified under federal law as a long-term care facility, including without limitation facilities licensed under the Nursing Home Care Act or the MR/DD Community Care Act, a supportive living facility, an assisted living establishment, or a shared housing establishment or registered as a board and care home.

(Source: P.A. 95-120, eff. 8-13-07; 95-331, eff. 8-21-07; 96-339, eff. 7-1-10.)