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Director

State of California—Health and Human Services Agency
California Department of Public Health



ARNOLD SCHWARZENEGGER
Governor

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AFL 08-08

TO: Intermediate Care Facilities for the Developmentally Disabled (ICF/DD)
Intermediate Care Facilities for the Developmentally Disabled-Habilitative (ICF/DD-H)
Intermediate Care Facilities for the Developmentally Disabled-Nursing (ICF/DD-N)

SUBJECT: Criminal Record Clearance for Consultants Working as Direct Care Staff

Pursuant to section 1265.5 of the Health and Safety Code, the Department of Public Health shall secure from the Department of Justice criminal offender record information to determine whether the applicant, facility administrator or manager, any direct care staff, or any other adult living in the same location, has ever been convicted of a crime other than a minor traffic violation.

“Direct care staff” means all facility staff who are trained and experienced in the care of persons with developmental disabilities and who directly provide program and nursing services to clients. Administrative and licensed personnel shall be considered direct care staff when directly providing program and nursing services to clients. Persons employed as consultants and acting as direct care staff shall be subject to the same requirements for a criminal record clearance as other direct care staff. However, the employing facility shall not be required to pay any costs associated with that criminal record clearance.

Assembly Bill 2564 (Chapter 889, Statutes of 2006) amended Section 1265.5 of the Health and Safety Code and became effective January 1, 2007. The amendment added subsection (h) that exempts consultants from obtaining multiple background checks provided certain conditions are met. Specifically subsection (h) states:

In addition to persons who are not required to obtain multiple criminal record clearances pursuant to subdivision (g), a person shall not be required to obtain a separate criminal records clearance if the person meets all of the following criteria:

- 1) The person is employed as a consultant and acts as direct care staff.

- 2) The person is a registered nurse, licensed vocational nurse, physical therapist, occupational therapist, or speech-language pathologist.
- 3) The person has obtained a criminal record clearance as a prerequisite to holding a license or certificate to provide direct care services.
- 4) The person has a license or certificate to provide direct care services that is in good standing with the appropriate licensing or certification board.
- 5) The person is providing time-limited specialized clinical care or services.
- 6) The person is not left alone with a client.

If you have any questions, please call Juan Chacon, Manager of the Criminal Background Identification Unit at (916) 552-8767.

Sincerely,

Original Signed by Pamela Dickfoss for Kathleen Billingsley, R.N.

Kathleen Billingsley, R.N.
Deputy Director
Center for Health Care Quality