

Illinois Department of Public Health

PRESENTATION TO THE ILLINOIS HEALTH AND HOSPITAL ASSOCIATION

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Understanding Hospital Compliance with the Health Care Worker Background Check Act

ILLINOIS DEPARTMENT OF PUBLIC HEALTH PRESENTERS:

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Presentation Topics

- Employees Covered by the Health Care Worker Background Check Act and the Health Care Worker Registry (Registry)
- Hospital-Specific Examples
- Employees Not Covered by the Act
- Recent Changes to the Registry
- Questions

Employees Covered by the Health Care Worker Registry (Registry)

WHO FALLS UNDER THE JURISDICTION OF THE HEALTH CARE WORKER REGISTRY (REGISTRY)?

Employees Covered by the Registry

Statutory Authority

- Health Care Worker Registry (Registry) is governed by the Health Care Worker Background Check Act (Act) [225 ILCS 46]

Employees Covered by the Registry

Statutory Authority (cont.)

- Section 10 of the Act states the Act applies only to individuals working in certain positions:
 - Sec. 10. Applicability. This Act applies to all 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 or has access to **long-term care residents** or the living quarters or financial, medical, or personal records of **long-term care residents**.
 - This Act also applies to all 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. (**Emphasis added.**)

Employees Covered by the Registry

Statutory Authority (cont.)

- Section 20 of the Act states that **the Act does not apply to licensed individuals:**
 - “This Act shall not apply to 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.”

Employees Covered by the Registry

Who May Be Included on the Registry

- Unlicensed staff only – per Section 20 of the Act – who are either:
 - “Direct Care Workers” [Section 10 of the Act]
 - Or
 - “Access Workers” [Section 10 of the Act]
- Examples of direct care workers and access workers are included on following slides

Employees Covered by the Registry

Who May Be Included on the Registry (cont.)

“Direct Care Workers”

- Direct care workers are unlicensed staff who provide “direct care,” which is defined in the Act as:
 - Providing nursing care, or
 - Assisting with feeding, dressing, movement, bathing, toileting, or other personal needs

Employees Covered by the Registry

Who May Be Included on the Registry (cont.)

“Direct Care Workers” (cont.)

- Direct care workers include persons working in the following occupations:
 - Home health aide
 - Nurse aide
 - Personal care assistant
 - Private duty nurse aide, and
 - Other similar positions, such as resident attendant, child care aide, habilitation aide, developmental disabilities aide, and psychiatric rehabilitation services aide

Employees Covered by the Registry

Who May Be Included on the Registry (cont.)

“Access Workers”

For **long-term care employers ONLY**, an access worker is **any** unlicensed individual working in a long-term care facility who:

- Has access to:
 - Long-term care residents
 - Living quarters of long-term care residents, or
 - Financial, medical, or personal records of long-term care residents, or
- Has, or may have, contact with long-term care residents

Employees Covered by the Registry

Who May Be Included on the Registry (cont.)

“Access Workers” (cont.)

- “Long-term care facility” defined:
 - State license or federal certification as a long-term care facility
 - Includes nursing homes, supportive living facilities, assisted living establishments, community living facilities
 - Does not include hospitals

Employees Covered by the Registry

Summary: Include on Registry

- For **all** health care employers:
 - **Unlicensed** staff who
 - Provide direct care
- For **long-term care facilities only**:
 - **Unlicensed** staff who
 - Provide direct care **or**
 - Have access/contact with residents

Hospital-Specific Examples

WHO, IN A HOSPITAL SETTING, FALLS UNDER THE JURISDICTION OF
THE ACT?

Hospital-Specific Examples

Licensed Staff

- **Not** under jurisdiction of the Act or the Registry
- **Not** added to the Registry
- Examples:
 - Doctors
 - Nurses
 - Radiologists
 - Occupational/Physical Therapists and Assistants
 - Speech/Language Pathologists

Hospital-Specific Examples

Unlicensed Staff

- Direct care workers:
 - Are under the jurisdiction of the Act and the Registry
 - Must be added to the Registry
- Other workers:
 - Are not under the jurisdiction of the Act or the Registry
 - May not be added to the Registry

Hospital-Specific Examples

Unlicensed Staff (cont.)

- Direct care examples:
 - CNAs
 - Patient care technicians
 - Orthopedic technicians
 - Mental health technicians
 - Phlebotomists
 - Transport personnel
- Direct care workers **must** be on the Registry

Hospital-Specific Examples

Unlicensed Staff (cont.)

- Non-direct care examples:
 - Admissions staff
 - Billing staff
 - Environmental services (laundry/housekeeping)
 - Dietary staff
 - Janitorial/maintenance staff
 - Surgical technicians
- Non-direct care workers **must not** be on the Registry

Hospital-Specific Examples

Unlicensed Staff (cont.)

- “But these staff have contact with patients or access to their quarters or records!”
 - Unless they are working in a direct care occupation (such as CNA), they are considered access workers, and must not be added to the Registry.
 - Access workers are covered by the Act and the Registry only if they work in long-term care facilities.

Hospital-Specific Examples

Managing Employees on the Registry

- Staff under the Act's jurisdiction
 - Add to HCWR (if not already listed)
 - Create Livescan requests (if no FEE_APP)
 - Add work history and verify employment
- Staff not under the Act's jurisdiction
 - Do not add to HCWR
 - Do not create Livescan requests
 - Do not add work history

Employees Not Covered by the Act

WHAT DO YOU DO WITH EMPLOYEES WHO DO NOT FALL UNDER THE JURISDICTION OF THE ACT?

BACKGROUND CHECKS FOR EMPLOYEES NOT COVERED BY THE ACT MAY NOT BE DONE THROUGH THE REGISTRY.

Employees Not Covered by the Act

Employer Policy on Background Checks

- Employers may, and should, draft policies on background checks for staff not covered by the Act. Those policies could include such things as:
 - Type of background check – fingerprint vs. name/SSN-based records check
 - What offenses are disqualifying
 - Which staff reviews and makes decisions on eligibility to work
- The policies should involve input from your legal department or outside counsel.

Employees Not Covered by the Act

Employees Already on the Registry

- Previously under HCWR jurisdiction
 - Former CNA, *e.g.*
 - Access worker in long-term care
- Never under HCWR jurisdiction
 - Always licensed
 - Never worked in long-term care

Employees Not Covered by the Act

Employees Already on the Registry (cont.)

- Look at current position
- If position not under the Act's jurisdiction:
 - Do not create Livescan request
 - Do not add work history

Employees Not Covered by the Act

Problems Created by Adding Staff Not Covered by the Act

- Eligibility
 - No authority
 - Other Agency responsible (IDFPR, *e.g.*)
 - Conflicting requirements
- Waivers
 - Cannot process/grant
 - Waiver determines eligibility

Employees Not Covered by the Act

Problems Created by Adding Staff Not Covered by the Act (cont.)

- Will show as “Ineligible”
- Employee’s future
 - Information remains
 - New employer checks the Registry
 - Complicates hiring process

Recent Changes to the Registry

HOW DO WE INTERPRET THE NEW INFORMATION ON THE PROFILE
PAGE?

Recent Changes to the Registry

Reason for Changes

- Recent legislation
 - HB 4515
 - Enacted as PA 99-0872
- Requirements:
 - Clear indication of eligibility
 - New waiver language/EEOC link
 - No waiver information on public website

Recent Changes to the Registry

Work Eligibility

- Created new field (appears under name)
- Shows employee's status:
 - Eligible
 - Ineligible
 - Not Yet Determined
- Employers can still see:
 - Disqualifying conviction information
 - Waiver status

Recent Changes to the Registry

Work Eligibility (cont.)

- Eligible:
 - Highlighted in green
 - Employee has FEE_APP
 - No disqualifying convictions or
 - Waiver granted

Recent Changes to the Registry

Work Eligibility (cont.)

- Ineligible:
 - Highlighted in red
 - ANT Finding (not waivable) or
 - Has FEE_APP
 - Disqualifying convictions
 - No waiver/waiver status:
 - Pending
 - Denied
 - Revoked
 - Returned

Recent Changes to the Registry

Work Eligibility (cont.)

- Not Yet Determined:
 - Highlighted in orange/yellow
 - No FEE_APP
 - No background check
 - UCIA background check
 - New employer must initiate FEE_APP

Recent Changes to the Registry

Work Eligibility (cont.)

- Disclaimer
- Reminds employer to check
 - Training and work history
 - Certifications
 - Positions requiring certification

Recent Changes to the Registry

Waiver Language/EEOC Link

- New language in waiver section
 - IDPH determined employee eligible
 - EEOC provides guidance on hiring
- Link to EEOC provided

Recent Changes to the Registry

Other Changes

- Background checks section
 - No “Hit/No Hit”
 - No flags
 - Rely on work eligibility
- Disqualifying criminal convictions
 - New section title

Recent Changes to the Registry

Other Changes (cont.)

- Changes to public website
 - Work Eligibility
 - No waiver information
 - Certification section

Recent Changes to the Registry

Screen Layout

The screenshot displays the 'HEALTH CARE WORKER REGISTRY' interface. At the top right is the 'iDPH Online' logo. A navigation bar includes 'Workers', 'New Application', 'Rejects', 'Employees', and 'Maintenance'. A dropdown menu is open under 'New Application', with 'Sample Employee' circled in green and an arrow pointing to it. Below this, a text box states: 'Work Eligibility: Ineligible' (with 'Ineligible' in red) and 'In addition to work Eligibility, Employers are responsible for checking "Training and Work History" and "Certifications" to determine if person is eligible to work in a position that requires certification, such as a CNA.' Below this is the 'IDPH Applicant Profile...' section, which is circled in green with an arrow. It features a 'Background Checks' table with columns 'App #', 'Type', 'FP Date', and 'Resp Date'. The table contains one row: App # 1717639, Type FEE_APP, FP Date n/a, Resp Date 3/1/2018. Below the table are sections for 'Demographic Information' (Name: Employee, Sample; SSN: XXX-XX-0003; Sex: M; DOB: 1/01/1900; Address: 123 Main St, Any City, IL 60000; Dept on Aging Registry Finding: Unavailable) and 'Disqualifying Criminal Offenses' (with a table showing Date 1/01/2000, DO, and Comment). A green arrow points to the 'Disqualifying Criminal Offenses' section. A 'Waivers' section at the bottom states: 'A waiver granted by the Department of Public Health is a determination that...'

Recent Changes to the Registry


Screen Layout (cont.)

Background Checks: PDF Reader

App #	Type	FP Date	Resp Date
1717639	FEE_APP	n/a	3/1/2018

Demographic Information:

Name: Employee, Sample
SSN: XXX-XX-0000
Sex: M
DOB: 1/01/1900
Address: 123 Main St
Any City, IL 60000



Dept on Aging Registry Finding: Unavailable

Livescan Requests: +

No Livescan Requests pending.

Disqualifying Criminal Offenses:

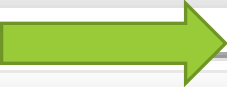
Date	DO	Comment
1/01/2000		

Waivers:

A waiver granted by the Department of Public Health is a determination that the applicant or employee is eligible to work in a health care facility. The Equal Employment Opportunity Commission provides guidance about federal law regarding the hiring of individuals with criminal records.
http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm

No waivers on record.

Training and Work History: +

No employment history on record. 

Abuse, Neglect and/or Theft Administrative Findings:

No Abuse, Neglect and/or Theft offenses on record.

Recent Changes to the Registry

Public Website

Illinois Department of Public Health

health care worker registry

[Home](#) | [Search](#)

[Validate SSN](#)

Sample Employee

Work Eligibility: Ineligible

In addition to work Eligibility, Employers are responsible for checking "Training and Work History" and "Certification Program Information" to determine if person is eligible to work in a position that requires certification, such as a CNA, DD Aide, or DSP.

Administrative Findings:
No administrative findings on record.

IDPH Determination of Illinois State Police Background Check:
3/01/2018 FEE_APP

Last Employment Verification:

Recent Changes to the Registry

Public Website (cont.)

Last Employment Verification:

Certification Program Information:

No programs on record.

Date Training Successfully Completed:

Date of Competency Evaluation:

No competencies on record.



[idph online home](#)



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Questions

HOW CAN WE CLARIFY THIS INFORMATION FOR YOU?