

Notice to Facilities on Required Employment Clearances

November 2008

Act 179 of 2006 and Act 73 of 2007 amended the Child Protective Services Law (CPSL). CSPL now requires that employees of addiction treatment facilities hired after July 1, 2008, that have “significant likelihood of regular contact with children in the form of care, guidance, supervision or training” obtain three background checks as a condition of employment:

- Pennsylvania State Police Clearance
- Department of Public Welfare (DPW) Childline Clearance
- Federal (FBI) Criminal Background Check (using electronic fingerprinting through a vendor to DPW: Cogent Systems)

DPW published an explanation and clarification of these requirements in **DPW Bulletin 3490-08-03** on **June 27, 2008**. The bulletin includes a list of the specific prohibitions to hiring under the CPSL. (See links and web addresses at the end).

For guidance in determining who is required to obtain the required clearances, the CPSL requires that: 1) the individual be an employee and 2) the employee should have “significant likelihood of regular contact with children in the form of care, guidance, supervision or training.” Employees include those individuals who receive a salary and are on the payroll of the facility as well as staff under contract with the facility. These employees must be involved with or have the significant likelihood of involvement with direct, hands-on care of children. This would include all health care workers in the facility that would have the potential to be involved in the treatment of children, even if such treatment is not a usual part of their job responsibilities. Employees who do not provide care, guidance, supervision or training to children, such as those employed in housekeeping, maintenance and dietary, would generally not be covered by the CPSL requirements. Facilities also must ensure that entities providing contract, temporary or agency staff comply with the law and meet the CPSL requirements for clearances for persons that meet the definition of having “significant likelihood of regular contact with children in the form of care, guidance, supervision or training”. This latter category includes any physician under contract to provide medical services as well as the usual contracted staff such as nurses, counselors, physical therapists, speech therapists, etc.

The requirements apply to all persons employed **after July 1, 2008**. Those individuals employed prior to July 1, 2008 who fall into the classification of having significant likelihood of regular contact with children in the form of care, guidance, supervision or training do not have to undergo the background checks. Those individuals employed prior to July 1, 2008 who were not working in a position with significant likelihood of regular contact with children in the form of care, guidance, supervision or training, but who subsequently transfer to a job that falls within this classification, must undergo the background checks at the time of job transfer. Those individuals employed after July 1, 2008 who do not fall within this classification at the date of hire but who subsequently

transfer to a job that falls within this classification, must undergo the background checks at the time of job transfer. Employees who have undergone the background check and transfer to another job in the same facility do not need to undergo the background check again. Employees who leave one facility and commence employment at another facility must undergo the background checks, unless the previous background checks were completed within the past year.

There is no requirement in CPSL for periodic update of the criminal background checks.

To assure compliance with the requirements of the Law, facilities must:

- Review employment policies and procedures to provide for identification of employees with “significant likelihood of regular contact with children”.
- Assure that all required background checks are completed, reviewed and documented in employee personnel files.
- Retain a copy of each of the background clearances and notate that the original documents have been reviewed.

Facilities should prepare for delays of about five weeks for receipt of the background information and provide for provisional status until all background information has been received and reviewed. During this period, persons may be employed on provisional status, if certain conditions are met. These include:

- A requirement that the provisional employee has applied for the mandatory background checks; provides evidence of completion of the request form; and swears or affirms in writing that he or she is not disqualified from employment.
- The facility must not be aware of any information that would disqualify the provisional employee from employment.
- The provisional employee must work in the immediate presence of a regular employee and not work alone with children.
- If the information that is obtained reveals that the provisional employee is disqualified from employment, the individual must be immediately dismissed.
- An individual may be provisionally employed for a maximum of 90 days for out of state residents and 30 days for Pennsylvania residents.

The Department will assess facility compliance with CPSL background check requirements during routine survey inspection and investigation activities.

The link to the DPW Bulletin 3490-08-03 and attachments:

<http://www.dpw.state.pa.us/ServicesPrograms/CashAsstEmployment/003673169.aspx?BulletinDetailId=4362>

The link to the DPW page on Child Abuse Clearance:

<http://www.dpw.state.pa.us/ServicesPrograms/ChildWelfare/003671038.htm>

The link to DPW information on registration for the FBI fingerprinting:

<http://www.pa.cogentid.com/dpw>