



PRE-EMPLOYMENT SCREENING

Appendix J - W152

§483.420(d) (1) (iii) The facility must prohibit the employment of individuals with a conviction or prior employment history of child or client abuse, neglect or mistreatment.

Guidance

The facility is required to **screen potential employees** for a **prior employment history** of child or client abuse, neglect or mistreatment, as well as for any conviction based on those offenses. The abuse, neglect or mistreatment must have been directed toward a child or a client/resident/patient of a health care facility in order for the prohibition of employment to apply.

No one with a conviction or substantiated allegation of child or client abuse, neglect or mistreatment regardless of employment date, is employed by the facility. This requirement also applies to acts of abuse, neglect or mistreatment committed by a current ICF/IID employee outside the jurisdiction of the ICF/IID (e.g., in the community or in another health care facility). The facility must follow state guidelines or requirements for background checks to assure that they make every effort to check new employee's background. Where the facility has terminated an employee based upon confirmation that abuse, neglect or mistreatment occurred during the employee's performance, and the termination decision was overturned by either arbitration finding or a court finding, the employee must be returned to a position which does not involve direct contact between that employee and clients of the facility.

A person who abused a resident in a nursing facility, and as a result, is barred from employment in the nursing home setting would also be prohibited from employment in the ICF/IID. While facilities are **not required** to periodically screen existing employees, if the facility becomes aware that such action has been taken against an employee, the facility is required to prohibit continued employment. This is also true of any conviction in a court of law for child, elder, or client (resident, patient) abuse, neglect or mistreatment. Therefore, conviction for abusing one's own child is also a reason employment would be prohibited.

**California Department of Public Health, Aide and Technician
Certification Section, at (916) 327-2445.**

Criminal Record Review

The purpose of the criminal record review process is to ensure the health, safety and well-being of the elderly, and/or individuals with disabilities cared for by certified nurse assistants (CNA), home health aide (HHA), **and/or direct care staff**. The criminal record review process includes the review of convictions substantially related to the qualifications, functions or duties of a CNA, HHA, and direct care staff.

What is a Criminal Record Review?

All applicants for a license, certificate or employment in an Intermediate Care Facility must obtain and maintain criminal record clearance. A review of the individual's criminal record begins upon submission of fingerprints to the Department of Justice (DOJ). Upon receipt of a notification from the DOJ the California Department of Public Health reviews the information to determine if that individual has any convictions on their record.

Who must undergo a criminal record review?

All initial applicants seeking a license, certificate or employment in an Intermediate Care Facility with the CDPH must undergo a criminal record review, in addition to any certificate or license holder upon notification of a new conviction from the DOJ.

How long is the criminal record review process?

A criminal record review includes analyzing the criminal record information provided by the DOJ in addition to, supporting documentation from law enforcement and the courts. The length of review time varies depending on the applicant/certificate holder's compliance, the number of convictions and timely communication from various criminal justice agencies.

Is it necessary to report all previous convictions to the CDPH even in cases where the court has granted a dismissal pursuant to Penal Code section 1203.4 or another applicable statute?

All convictions must be reported to the CDPH even if the court granted a dismissal pursuant to PC 1203.4 or any other applicable statute, with the exception of marijuana-related offenses specified in the marijuana reform legislation and codified in Health and Safety Code sections 11361.5 and 11361.7. All convictions will be reviewed on a case by case basis, and the CDPH will take into consideration the nature and severity of the crime, and the amount of time that has passed since the most recent conviction, in addition to other factors. A Notice of Denial or Notice of Revocation letter is sent to applicants and/or certificate holders, who are not granted criminal record clearance. Upon receipt of the denial or revocation letter the individual may not work or advertise as a CNA and/or a HHA.