

CHAPTER 104

AN ACT requiring criminal history record background checks for health care professionals, supplementing Title 45 of the Revised Statutes, amending P.L.1997, c.100 and repealing section 18 of P.L.1997, c.331.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.45:1-28 Definitions relative to criminal history background checks for health care professionals.

1. As used in this act:

"Applicant" means an applicant for licensure or other authorization to engage in a health care profession.

"Board" means a professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Health care professional" means a health care professional who is licensed or otherwise authorized, pursuant to Title 45 or Title 52 of the Revised Statutes, to practice a health care profession that is regulated by one of the following boards or by the Director of the Division of Consumer Affairs: the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Dentistry, the New Jersey State Board of Optometrists, the Board of Pharmacy of the State of New Jersey, the State Board of Chiropractic Examiners, the Acupuncture Examining Board, the State Board of Physical Therapy, the State Board of Respiratory Care, the Orthotics and Prosthetics Board of Examiners, the State Board of Psychological Examiners, the State Board of Social Work Examiners, the State Board of Veterinary Medical Examiners, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology and Speech-Language Pathology Advisory Committee, the State Board of Marriage and Family Therapy Examiners, the Occupational Therapy Advisory Council or the Certified Psychoanalysts Advisory Committee.

Health care professional shall not include a nurse aide or personal care assistant who is required to undergo a criminal history record background check pursuant to section 2 of P.L.1997, c.100 (C.26:2H-83) or a homemaker-home health aide who is required to undergo a criminal history record background check pursuant to section 7 of P.L.1997, c.100 (C.45:11-24.3).

C.45:1-29 Criminal history record background check required for licensure of health care professional.

2. a. A professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety or the director who regulates the practice of a health care professional, as applicable, shall not issue an initial license or other authorization to practice a health care profession that is regulated by that board or the director to any applicant therefor unless the board or director, as applicable, first determines, consistent with section 8 of P.L.1978, c.73 (C.45:1-21), that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which may disqualify the applicant from being licensed or otherwise authorized to practice as a health care professional.

C.45:1-30 Submission of information by applicant.

3. a. An applicant who is required to undergo a criminal history record background check pursuant to section 2 of this act shall submit to the director that individual's name, address and fingerprints taken on standard fingerprint cards by a State or municipal law enforcement agency or by a private entity under contract with the State. The director is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required pursuant to this act.

b. Upon receipt of the criminal history record information for an applicant from the Federal

Bureau of Investigation or the Division of State Police, the director shall immediately notify the board, as applicable.

c. If an applicant refuses to consent to, or cooperate in, the securing of a criminal history record background check, the board or director, as applicable, shall not issue a license or other authorization to the applicant and shall notify the applicant of that denial.

C.45:1-31 Applicant to assume cost.

4. An applicant shall be required to assume the cost of the criminal history record background check conducted pursuant to sections 1 through 3 of this act and section 14 of P.L.1997, c.100 (C.53:1-20.9a), in accordance with procedures determined by regulation of the director.

5. Section 14 of P.L.1997, c.100 (C.53:1-20.9a) is amended to read as follows:

C.53:1-20.9a Applicant background check for certain health care professionals.

14. a. In accordance with the provisions of sections 2 through 6 and sections 7 through 13 of P.L.1997, c.100 (C.26:2H-83 through 87 and C.45:11-24.3 through 24.9) and P.L.2002, c.104 (C.45:1-28 et al.), the Division of State Police in the Department of Law and Public Safety shall conduct a criminal history record background check, including a name and fingerprint identification check, of:

(1) each applicant for nurse aide or personal care assistant certification submitted to the Department of Health and Senior Services and of each applicant for homemaker-home health aide certification submitted to the New Jersey Board of Nursing in the Division of Consumer Affairs;

(2) each nurse aide or personal care assistant certified by the Department of Health and Senior Services and each homemaker-home health aide certified by the New Jersey Board of Nursing, as required pursuant to P.L.1997, c.100 (C.26:2H-83 et al.); and

(3) each applicant for licensure or other authorization to engage in a health care profession who is required to undergo a criminal history record background check pursuant to P.L.2002, c.104 (C.45:1-28 et al.).

b. For the purpose of conducting a criminal history record background check pursuant to subsection a. of this section, the Division of State Police shall examine its own files and arrange for a similar examination by federal authorities. The division shall immediately forward the information obtained as a result of conducting the check to: the Commissioner of Health and Senior Services, in the case of an applicant for nurse aide or personal care assistant certification or a certified nurse aide or personal care assistant; the New Jersey Board of Nursing in the Division of Consumer Affairs in the Department of Law and Public Safety, in the case of an applicant for homemaker-home health aide certification or a certified homemaker-home health aide; and the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, in the case of an applicant for licensure or other authorization to practice as a health care professional as defined in section 1 of P.L.2002, c.104 (C.45:1-28).

C.45:1-32 Rules, regulations.

6. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

Repealer.

7. Section 18 of P.L.1997, c.331 (C.45:2D-18) is repealed.

8. This act shall take effect on the 365th day after enactment, but the Director of the Division of Consumer Affairs in the Department of Law and Public Safety may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved November 22, 2002.