



Personal Care Home Connection

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The Older Adult Protective Services Act (OAPSA)

Criminal History Background Checks

By Denise Getgen, Pennsylvania Department of Aging (PDA)

The [Older Adults Protective Services Act](#) (OAPSA) mandates that employees or applicants hired after July 1, 1998, obtain a report of criminal history information from the Pennsylvania State Police. If an employee or applicant has not been a resident of Pennsylvania for the two years immediately preceding the employment application, an FBI record check must also be obtained. The Pennsylvania Department of Aging (PDA) is the intermediary for all FBI checks. The request for an FBI check must be submitted by submitting a paper fingerprint card, transmittal form, and a \$30.25 cashier's check or money order payable to the Commonwealth of Pennsylvania. PDA will forward the information to the FBI and will receive the results from the FBI which then will be sent to both the facility and the applicant.

For more information about Criminal History Background Checks, go to PDA's on-line training at www.aging.state.pa.us/psolinetraining or call 717-265-7887.

Protective Services

By Denise Getgen, PDA

The Older Adults Protective Services Act (OAPSA) mandates that in every county in Pennsylvania there is an Area Agency on Aging (AAA) who is responsible to investigate allegations of elder abuse. Any person can report suspected elder abuse 24 hours a day, 7 days a week by calling 1-800-490-8505. These calls can be made any time of the day or night and are free and confidential.

Signs of elder abuse – Although these signs do not always mean elder abuse, it is important to be aware that elder abuse can occur at anytime to anyone:

- Bruises or broken bones
- Weight loss
- Dementia may be blamed on “old age” when the real cause is malnutrition or drug interactions or side effects.
- The older person never goes outside or never sees visitors
- Withdrawing large sums of money from a savings account without apparent reason
- Signing over his or her home to a relative

For further information regarding Protective Services, please see the Department of Aging website at <http://www.aging.state.pa.us/psolinetraining>.

Mandatory Abuse Reporting

By Denise Getgen, PDA

The Older Adults Protective Services Act (OAPSA) requires administrators and employees of specific facilities, including but not limited to personal care homes, nursing homes, domiciliary care homes, adult day care centers, and home health care agencies and registries to report suspected abuse, both orally and in writing, to the local Area Agency on Aging (AAA). If the abuse is sexual abuse or results in serious physical injury, serious bodily injury or suspicious death, the facility must also report verbally to the PA Department of Aging and local law enforcement; in addition a written report must be submitted to law enforcement and the AAA within 48 hours.

For more information about Mandatory Abuse Reporting, please see the Department of Aging website at www.aging.state.pa.us/psolinetraining.

Frequently Asked Questions

By Tara Pride, Adult Residential Licensing (ARL)

What are the requirements for a provisional hire?

Response: There are three requirements that must occur prior to or on the date of hire:

1. Applicants must have applied for a criminal history report and provided the home with a copy of the completed request forms.
2. The home must have no knowledge about the applicant that would disqualify the applicant from employment under 18 Pa.C.S. § 491 (relating to tampering with public record information).
3. The applicant must swear or affirm in writing that he/she is not disqualified from employment under the act. (see 6 Pa.Code § 15.146, 35 P.S. § 10225.506)

The PCH must keep a copy of this affirmation. If there is no such document, this is a violation.

What is the period of time a person can be hired on a provisional basis?

Response: A personal care home (PCH) may employ an applicant, who has been a resident of Pennsylvania for the preceding two consecutive years immediately preceding the date of the application for employment, on a temporary, provisional basis for a single period not to exceed 30 days immediately following the date of employment.

A personal care home may employ an applicant, who has not been a resident of Pennsylvania for two consecutive years immediately preceding the date of the application for employment, on a temporary provisional basis for a single period not to exceed 90 days, immediately following the date of employment, if the applicant has submitted his/her request for a FBI criminal history clearance to PA Department of Aging.

What are the requirements of a PCH that chooses to hire on a provisional hire basis?

Response: The provisionally employed individual shall receive an orientation that provides information on policies, procedures and laws relating to the proper care and recognition and reporting of abuse and neglect. The PCH shall regularly supervise the provisionally employed individual while he/she is carrying out assigned duties. The results of the observations shall be documented in the employee HR file. (see 6 Pa.Code § 15.146)

What does a PCH do if the information from a criminal background check comes back negative?

Response: If information obtained from the criminal history check reveals that the applicant is disqualified from employment, the applicant shall be dismissed immediately. Therefore, if a criminal history check comes back negative, the PCH must immediately (same day) terminate the provisionally employed individual. (see 6 Pa.Code § 15.146(7)(b), and § 15.143)

What if a criminal history check is delayed?

Response: If criminal history checks are delayed due to the inability of state police or FBI to provide a timely response, an extension may be granted. However, this rarely occurs. If a home claims a delay in response, ARL staff should make a copy of the criminal history clearance application and submit to ARL Headquarters for review with PA state police or PA Department of Aging (if FBI).

Does OAPSA require criminal history checks of other adults in the home?

Response: No, OAPSA only requires criminal history checks for employees or contracted employees. The definition of employee includes contract employees who have direct contact with residents or unsupervised access to their personal living quarters. It also includes persons employed or contracted by a public or private organization to provide care to a care dependent person in his/her own residence. Therefore, criminal history checks of other adults in the home are not required unless they are paid to do personal care home duties.

Duties such as home repair work, cooking, laundry, and cleaning constitute personal care work and therefore checks are required for any persons who are paid to carry out those duties.

If a resident receives payment for work, then the resident must have a criminal history check.

Are contract employees exempt from a criminal history check?

Response: The definition of employee includes a contract employee who has direct contact with residents or unsupervised access to their residential personal living quarters. It also includes an individual employed or contracted by a public or private organization to provide care to a care dependent person in his/her own residence.

A contracted employee (e.g. construction work, cable installation, groundskeeper) is only exempt if he/she has NO direct contact with the residents at all, AND NO unsupervised access to residents' personal living quarters.

If a contracted employee (e.g. construction work, cable installation, groundskeeper) has any type of direct contact with a resident OR unsupervised access to residents personal living quarters without direct oversight by other employed staff, background checks are required for the contract staff. This includes incidental, occasional contact such as lawn service, cable installation, electrician; etc.

Are volunteers exempt from criminal history checks?

Response: Yes, volunteers are exempt. A volunteer is a person who is not compensated in any way for the services he/she provides. If a volunteer is not receiving payment or in-kind services, then a criminal history check is not required.

However, if a person receives a service (such as free or reduced rent) in exchange for performing any personal care home service, then he/she is not a volunteer and a check is required.

The Department recommends but does not require that each facility run a criminal history background check on all of its volunteers. Each facility is encouraged to develop its policies to include criminal history background checks as a pre-requisite for working there. Having sound, preventative policies in place can help to save the facility from possible negative incidents happening as well as legal troubles.

Does an administrator hired after July 1, 1998 need a criminal history check?

Response: All PCH administrators hired after July 1, 1998 need to have criminal history checks. There are no exceptions based on a person's duties. [see 6 Pa.Code § 15.142(a)(1)]

When does a PCH legal entity/owner/operator need a criminal history check?

Response: An owner/operator (including a board member or partner) who has even occasional direct contact with residents must have a criminal history check. Owners/operators are exempt if they are never in the home (this pertains mostly to operators who reside in a different state than the personal care home they operate). If they occasionally visit the home, even to do administrative duties, a criminal history check is required.

Must the PCH ask all applicants to verify or sign an affidavit as to whether they lived outside of Pennsylvania within the past 2 years?

Response: According to 6 Pa.Code § 15.141(b), a facility may require an applicant to furnish proof of residency by requesting any of the following documents: a valid driver's license, housing records, utility records, tax records, and employment records. However, it is up to each PCH if they wish to require this of applicants or not. The home should have a policy established regarding applicants and the hiring process.

What does OAPSA require relating to a post-employment crime (OAPSA prohibited offense)?

Response: If a PCH employee is convicted of an OAPSA prohibited offense while employed and is separated from employment (serves time in a correctional facility), a new check should be completed upon the employee's requested return to the home. The check then should come back as having an OAPSA prohibited offense and the employee may not be rehired.

If a PCH employee is convicted of an OAPSA prohibited offense while employed and is not separated from employment (serves time in a correctional facility), it is recommended but not required that the home terminate the employee.

Aging's OAPSA regulations do not have requirements which pertain to this situation. Therefore, it is recommended but not required that the home terminate any employee who is convicted of an OAPSA prohibited offense while employed at the home.

Does a disposition of "adjudicated delinquent" mean the same as a disposition of "conviction" under the Older Adults Protective Service Act and regulations?

Response: According to the Department of Aging's Legal Counsel, the position of the Department of Aging on this issue is if a Pennsylvania record shows that an individual was "adjudicated delinquent" as a juvenile, this does not count as a conviction for purposes of the Older Adult Protective Services Act's criminal history background check rules. The Department of Aging bases this position primarily on the following provision of Pennsylvania's judicial code: "An order of disposition or other adjudication in a proceeding under [the Juvenile Matters Chapter] is not a conviction of a crime and does not impose any civil disability ordinarily resulting from a conviction or operate to disqualify the child in any civil service application or appointment." 42 Pa. C.S. § 6354(a).

The juvenile justice system is based on different principles than the regular criminal justice system and it would not be appropriate to treat juvenile adjudications as convictions. These adjudications are often under seal and would not appear in routine Pennsylvania State Police checks. When the Department of Aging processes a FBI check under the OAPSA rules for applicants who have not lived in Pennsylvania for the last 2 years, the Department of Aging applies a similar standard – if it is clear that the disposition was in the juvenile justice system, it is treated as if it as a non-conviction; if there is a very serious offense listed on the FBI rap sheet and Aging cannot tell from that sheet whether the juvenile was tried as an adult for that offense or adjudicated in that state's juvenile justice system, Aging will ask for more documentation.

If a prospective staff person moved out of Pennsylvania for a short time such as 2 months and then moved back to Pennsylvania, do they need an FBI criminal history background check?

Response: Yes; if a person moved out of Pennsylvania at any time during the past 2 consecutive years, then he/she needs a FBI criminal history background check completed.

A legal entity has several personal care homes and affiliated hospitals. Some of the employees of these facilities were grandfathered and did not have the criminal history background checks done. Would they have to get new criminal history background checks if they are transferred within the same legal entity?

Response: According to Aging's regulations at § 15.142, employees who transfer to another facility established or supervised (or both) by the same operator do not need to have another criminal history background check done. These exempted employees would remain exempt from the criminal history background check.

Is an OAPSA check required for an administrative/clerical employee who does not work in the PCH building (e.g. a bookkeeper who works in another building outside of the personal care home and never goes to the PCH)?

Response: As per 6 Pa.Code § 15.142, an individual who is employed for purposes other than providing care in a facility or in a recipient's place of residence is exempt from having a criminal history background check completed.

In the situation described above, the bookkeeper is exempt from having a criminal history background check completed as long as the bookkeeper does not assist or provide care services to residents. The bookkeeper also may not have any access to any patients at any time. This person should not have any reason whatsoever to go into the facility; they cannot even walk through the facility (such as walk through one part of the building to get to another). It is recommended but not required that the facility ask the bookkeeper to sign a statement saying that he/she understands that he/she cannot enter the facility under any circumstances and that he/she will adhere to that rule.

Although the person described above is exempt from a criminal history background check under the Department of Aging's regulations, it is recommended but not required that each facility run a criminal history background check on all of its employees (the bookkeeper as described above may have access to confidential financial information on each resident; this could be problem some if the person has a history of theft). Each facility is encouraged to develop its policies to include criminal history background checks as a pre-requisite for working there. Having sound, preventative policies in place can help to save the facility from possible negative incidents happening as well as legal troubles.

SANITARY PRACTICE GUIDELINES

I. HANDWASHING

How should I wash my hands?

- a. Turn water on and adjust to a warm temperature (as warm as can tolerate). Use clean, running water.
- b. Apply soap using a hand-pump dispenser to pump soap into the palm of your hand and rub together.
- c. Clean your hands thoroughly. Make sure to scrub your wrists, between your fingers, and underneath your fingernails.
- d. Continue to wash your hands for 15-20 seconds. To time yourself, the CDC recommends singing the entire "Happy Birthday" song twice.
- e. Always rinse your hands well under clean running water. Hold your hands angled downward under the water so that the soap and dirt rinses downward from your hands.
- f. Dry all surfaces of your hands thoroughly using a paper towel or an air hand-dryer.
- g. Apply a hand lotion to prevent cracks and dryness (and thus spread disease through open cuts).
- h. Use a clean paper towel or tissue to shut off the water and to open the door when leaving the bathroom.

When must hands be washed?

- a. When visibly soiled.
- b. After contact with broken skin, wounds, blood, or body fluids.
- c. Before and after preparing food or handling uncooked meat.
- d. Before and after eating or helping a resident to eat.
- e. After helping a resident to use the toilet or after changing an adult disposable brief.
- f. After using the bathroom.
- g. After helping a resident to bathe or wash.
- h. After blowing your nose or a resident's nose.
- i. Before beginning the medication administration process.
- j. After touching an animal or animal waste.
- k. Before and after cleaning a kitchen or bathroom.

Note: Hand sanitizer is not a substitute for handwashing. Use of hand sanitizer can be used between multiple resident medication administration doses, if there is no contact with blood or body fluids and if hands are not visibly soiled.

II. USE OF GLOVES

When should I wear gloves?

- a. When assisting a resident with toileting, incontinence care, bathing, mouth care, or wound care.
- b. Any time contact with blood or body fluids is possible.
- c. When handling food with your hands.
- d. When applying any creams or ointments to a resident's skin.
- e. When checking a resident's blood sugar.
- f. When handling soiled laundry or linens.
- g. When handling soiled adult disposable briefs.

If you have an open sore or cut on your hand, it must be covered with a bandage or gloves when providing care.

When must gloves be changed?

- a. Immediately after contact with each resident. Do not wear the same pair of gloves to provide care to more than one resident. Do not walk around the facility wearing soiled gloves.
- b. When they are visibly soiled.
- c. After handling soiled linens, clothing, or adult disposable briefs.
- d. Wash your hands after you remove gloves.
- e. Use of powderless gloves is recommended.

III. HOUSEKEEPING/LAUNDRY

What are some sanitary housekeeping practices?

- a. Routinely clean and disinfect bathrooms, floors, and any surfaces used in assisting residents with care (over-the-bed tables, bedside commodes). An acceptable disinfectant is 1 part bleach to 99 parts water or ¼ cup bleach to 1 gallon water.
- b. When handling soiled laundry, carry it away from your body and clothes.
- c. When doing laundry, follow the instructions of the machine, detergent, and additives closely to ensure a proper concentration of chemicals.
- d. If laundry is extremely contaminated, water temperature must be at least 160°F to remove contaminants.

- e. Clean cat litter box daily.
- f. Sanitize the tub, shower, shower chair, and whirlpool bath after each use. Follow the manufacturer's instructions for cleaning; use only nonporous bathing equipment.

What practices should be used in the kitchen?

- a. Clean all kitchen surfaces, cutting boards, and utensils with soap and water or a disinfectant after preparing a food item and before preparing the next food item.
- b. Empty and clean the refrigerator thoroughly at least once per week.
- c. Use a separate cutting board and utensils for meats. Do not use these items for other food items once they have touched meats. Throw away worn cutting boards. Do not use wooden cutting boards, bowls, or utensils.
- d. Rinse fruits and vegetables in water before preparing or serving.
- e. Keep raw meat separate from other foods when storing and preparing food. Raw meats must be stored on the lowest refrigerator shelf to avoid contamination of food below.

IV. MEDICATION ADMINISTRATION

What are sanitary medication practices?

- a. Do not recap, bend, break, or remove needles by hand after administering an injection.
- b. Dispose of all needles, razor blades, and other sharp items in a puncture-resistant container.
- c. Do not use a disposable syringe or needle more than once or for more than one person.
- d. Do not use a razor blade or shaving razor for more than one person.
- e. Insulin vials must not be used for more than one resident. Each resident who is prescribed insulin must have their own insulin vial.
- f. Do not use a glucometer (machine to check blood sugar) for more than one resident. Each resident who is prescribed glucometer blood sugar checks must have their own lancets, testing strips, and glucometer. These items must be labeled with the resident's name or stored in a container that is labeled with the resident's name.
- g. Avoid use of penlet devices since they harbor residual blood, but if used, penlets may not be used for more than one resident.
- h. Do not touch pills or ointment medicines with your bare hands. When preparing medications, pills should be placed directly from the medication bottle or card into a cup for administration.
- i. Devices used to crush or cut pills must be cleaned between each use.

Activities ARE Important

By Debra Avery, Central Region County Coordinator

Imagine having nothing to look forward to day after day. A lack of meaningful activity and things to look forward to may lead to aggressive behavior or boredom/depression. Activities that allow residents to draw upon their life experiences and to share them with others can be highly fulfilling, both for residents, visitors, and staff. When interviewing residents about their likes, dislikes, hobbies and interests, expand upon the topic by asking: What did/do you enjoy doing with your children, spouse, neighbors and friends; what was your occupation; what television shows, music, etc. do you like?

Personal care home regulations state that homes must provide activities in a planned, (this includes date and time) coordinated and structured manner designed to promote each resident's active involvement with other residents, the resident's family and the community. Several alternate group activities (including social, physical, intellectual and recreational activities) must be offered each day (at least 2/day) and a weekly activity calendar must be posted where residents, staff and visitors can easily see it.

Here are some activities that do not take a lot of staff time and can be very rewarding for the residents:

Current events – (brings a sense of being a part of the community) - While the residents are eating breakfast a staff person or volunteer reads the headlines of the front page of the morning newspaper. If there is an interest in the headline, the article is read and a discussion may follow.

World map – (reminiscing, travel) - A large map is displayed on the dining room wall (or some other public area) and pins are placed on the map to indicate where each resident was born. Further activities around the map might include residents and their family members sharing memories and pictures of their birth place. A local exchange student might give a presentation on a resident's country of birth.

Pet visits – (sensory, feelings of nurturing) - Contact the local animal shelter and ask them if they would like to bring some pets at your home once a month, with the community invited to attend. (Reminder, pets must have a rabies vaccination, be in good health, and non-aggressive.)

Crafts/Gardening/Games – (exercise, memory, sense of accomplishment) - Invite local Boy and Girl Scout groups or school groups to come to the home to assist in these activities. Invite a local gardening club to assist residents in maintaining a garden.

Outings – (socialization, exercise) - Ask a local church for volunteers to take residents on an outing one time a month.

Group exercise – (physical strength/stretching) – Lead a group stretch and light exercise session. Even persons who use a physical device can participate in light strength and stretching exercises.

Upcoming Trainings

The Department is currently making arrangements to offer the following FREE trainings this fall:

- Fire safety (ARL Staff)
- Nutrition (ARL Staff)
- Abuse Prevention, Reporting and Investigation (Temple University)

Please check the website (www.dpw.state.pa.us/PartnersProviders/LongTermLiving) in late summer for details.

Next Issue

If you have suggested topics to cover in future editions of this newsletter, please contact Kimberly Black, Director of Training, Room 423 Health & Welfare Building, Harrisburg, PA 17120 or at telephone number 717-783-3670.

Remember to sign-up for the Governor's Newsletter at:

<http://www.governor.state.pa.us>

