



August 1, 2014

Dear Mental Health Facility Provider:

In 2007, the Department of Public Welfare, Office of Mental Health and Substance Abuse Services published bulletin number *OMHSAS-07-01* relating to the requirements for hiring practices in mental health residential settings in accordance with the Older Adult Protective Services Act (OAPSA). The requirements of OAPSA (35 P.S. §§ 10225.101 - 10225.5102) and 6 Pa.Code Chapter 15 (relating to protective services for older adults) apply to licensed facilities serving adults with mental illness including Long Term Structured Residences, 55 Pa.Code Ch. 5320; and Community Residential Rehabilitation Services for the Mentally Ill, 55 Pa.Code Ch. 5310.

Effective immediately, the Bureau of Human Services Licensing (BHSL) will measure compliance with OAPSA during inspections of Long Term Structured Residences or Community Residential Rehabilitation settings serving adults.

When hiring a new employee, OAPSA requires that the facility determine if the applicant has held permanent residency in a state other than Pennsylvania within the past two years and request the appropriate criminal background checks from Pennsylvania State Police (PSP) and Federal Bureau of Investigation (FBI) on or before the first day of work. Please note that the FBI background checks under OAPSA are reviewed and analyzed by the Pennsylvania Department of Aging and results will be provided to a prospective employee on Department of Aging letterhead.

Facilities may employ applicants on a provisional basis for a single period not to exceed 30 days who have been a resident of Pennsylvania for two years immediately preceding the date of the application for employment; and, a period of 90 days for applicants who have not been a resident of Pennsylvania for two years immediately preceding the date of the application for employment, if specific conditions are met.

In accordance with 55 Pa.Code § 5310.14(a) (relating to Personnel Management) or 55 Pa.Code § 5320.22(8) (relating to Governing body), the facility should review and update their personnel policies, as necessary, to assure they are compliant with the hiring procedures of OAPSA.

A copy of the OAPSA regulations, a list of OAPSA prohibited offenses and additional OAPSA information can be found on the Department's website at: <http://www.dhs.state.pa.us/provider/longtermcareservices/>.

In addition, a criminal background check self-study course can be found on the Pennsylvania Department of Aging's website at: http://www.aging.state.pa.us/portal/server.pt/community/self_study_course/18031/unit_4_criminal_background_checks/616720.

OAPSA requirements apply to all staff employed by Chapter 5320 and 5310 facilities serving adults who were hired on or after July 1, 1998. Failure of Chapter 5320 and 5310 facilities serving adults to hire in accordance with OAPSA for all new hires from the date of this letter will result in a regulatory violation of 62 P.S. § 1007. BHSL will not cite Chapter 5320 and 5310 facilities for failure to obtain PSP and FBI criminal history checks for employees hired prior to the date of this letter, as long as the PSP and FBI checks (if required), are obtained within 120 days from the date of this letter.

Facilities licensed under 55 Pa.Code Chapter 5310 that provide host home services to children are required to obtain child abuse and criminal history checks completed in accordance with 23 Pa.C.S. § § 6301—6385 (relating to the Child Protective Services Law) and Chapter 3490 (relating to protective services). A 5310 host home for children is considered a child care service under 55 Pa.Code § 3490.121 (relating to Definitions). Information on the requirements of the Child Protective Services Law can be found here:

<http://www.dhs.state.pa.us/provider/childwelfareservices/childabusehistoryclearanceforms/index.htm>

Questions related to the application of OAPSA or the CPSL can be directed to the BHSL Provider Support Hotline at 1-866-503-3926. Questions may also be directed via email to ra-pwarlheadquarters@pa.gov.

Thank you for your continued partnership in protecting the health, safety, and welfare of the Commonwealth's most vulnerable citizens.

Sincerely,

Matthew J. Jones

Matthew J. Jones
Director