

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF BEHAVIORAL HEALTH



MHRS Bulletin

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Criminal background checks required for unlicensed personnel under the Health-Care Facility Unlicensed Personnel Criminal Background Check Amendment Act

The purpose of this Bulletin is to clarify the scope of criminal background checks required for unlicensed personnel under the Health-Care Facility Unlicensed Personnel Criminal Background Check Amendment Act of 2002, D.C. Official Code § 44-551, *et seq.*, and its implementing regulations, Title 22-B, Chapter 47 of the District of Columbia Municipal Regulations.

The Department recently became aware that some of the criminal background checks performed by the Metropolitan Police Department do not search for or identify criminal convictions occurring outside the District of Columbia. Any record check that identifies convictions in the District only does not satisfy the requirements of the statute. In order to comply with the law and the Department's licensing requirements, providers must ensure their employees obtain the proper criminal background check that utilizes fingerprint or live scan technology and checks for convictions in all 50 states.

D.C. Official Code § 44-552 sets forth the requirements of criminal background checks for unlicensed personnel. Under Section 552(b), "no facility shall employ or contract with any unlicensed person until a criminal background check has been conducted. Additionally, no facility shall employ or contract with any unlicensed person if, within the 7 years preceding a criminal background check, the person has been convicted of certain offenses. In terms of the type of background check, the implementing regulation states that each facility or provider:

Shall cause each prospective employee or contract worker who will have, or foreseeably may have direct patient, resident, or client access, to undergo a criminal background check that shall reveal the criminal history, if any, in the District of Columbia and the fifty (50) states. Fingerprinting or live scan shall be performed in the District of Columbia utilizing the Metropolitan Police Department (MPD) or a private agency. The

criminal background check shall be performed, following fingerprinting or live scan, by the MPD and Federal Bureau of Investigation (FBI) in an FBI-approved environment.

Title 22B, D.C. Municipal Regulation § 4701.2.

Thank you for your attention to this important matter. If you have any questions about this information, please contact Matthew Caspari, DBH General Counsel, at (202) 673-7505.