



Policy and Procedure

Section: Provider Relations
Subject: Managing Entity Provider Network Contract Management
Policy Number: PR 007, Level 2 Background Screening
Effective Date: November 1, 2012
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Review Date: N/A

Policy Statement: This policy promotes the integrity of the Concordia Behavioral Health operations related to services provided on behalf of the Broward Behavioral Health Coalition (BBHC) and its clients. This policy ensures the proper care, safety, and protection of client information protected by federal and State of Florida laws, rules, regulations, and Florida Department of Children and Families rules and policies. A Level 2 Background Screening will be successfully completed prior to the employee performing his/her duties.

Policy: This policy formalizes the role of Concordia Behavioral Health in serving clients of the Florida Department of Children and Families and special responsibilities in dealing with adults and children requiring substance abuse and mental health services. As such, through this policy, Concordia has determined it is appropriate to adhere to Level 2 background screening requirements for all employees, volunteers, and contractor staff with job duties that require access to clients and/or access to personal information protected by federal and/or State laws, rules, regulations, or policies of clients.

Procedures

I. Procedures

- A. Employees will be screened in accordance with Level 2 standards, as set forth in Chapter 435, Florida Statutes, as a condition of initial employment and retention in those positions. Additionally, as set forth in Chapter 435, Florida Statutes, employees covered under this policy will be required to successfully complete a re-screening every five (5) years as a condition of his/her continued employment.
- B. Every selected applicant shall, prior to beginning employment with the Department, be fingerprinted and their fingerprints forwarded for processing to the Florida Department of Law Enforcement. The fingerprints shall be taken by the Department, a law enforcement agency, or a vendor as authorized pursuant to Section 435.04, F.S. There must be no disqualifying offenses under Chapter 435, F.S. Fingerprints may be kept on file with FDLE and FBI for “real time” cross-checking against state and federal arrest reports.
- C. Employment background screening shall be completed prior to hiring an employee or utilizing the services of a volunteer, or contracted employee.
- D. Employees will report any arrest, which includes any notice to appear in court for a criminal charge to their immediate supervisor within 24 hours of the arrest or receipt of the notice to appear. If an employee fails to report an arrest within

24 hours, he/she shall submit an explanation as to why the arrest was not timely reported. Failure to timely report an arrest may result in disciplinary action up to, and including, dismissal. The immediate supervisor must complete the Employee Arrest/Court Appearance Notification (**form CF 760, available in DCF Forms**) to document all reports.

- E. All criminal history record information shall be reviewed by the Human Resources Manager, a management representative and, as necessary, legal counsel. A criminal history does not automatically bar someone from employment unless the criminal history is a disqualifying offense under Chapter 435, F.S., or if applicable Chapter 408, F.S. The nature, job relatedness, severity and offense date in relation to the position applied for must be considered. The review will include all criminal history record information to determine if there are any disqualifying arrests pending disposition, convictions or court pleas under Chapter 435, F.S., or if applicable Chapter 408, F.S.
- F. Any person who is required to undergo background screening and refuses to cooperate in such screening or refuses to submit the information necessary to complete the screening shall not be employed or utilized until a background screening is complete and the outcome of the screening states the person is eligible for employment. Any person already employed who becomes disqualified shall be dismissed.
- G. Candidates who have no criminal history shall be immediately authorized to begin employment, and the Human Resources Manager shall issue a clearance letter (or other documentation that shows the candidate successfully completed the background screening) to be placed in the employee's personnel file. When the results of an employee security background check indicates a criminal record, all arrests, final disposition information and recommendation for employment must be documented on the Criminal History Record Review Checklist (**form CF 757, available in DCF Forms**).
- H. Upon the request, the person whose background is being investigated shall promptly provide any missing information relating to the arrest and/or final disposition to the Department within 30 days of a request for such information. Failure to do so in a timely manner, without cause, shall result in termination of employment for current employees and applicants for employment shall no longer be considered for employment.

II. **Screening Requirements for Selected Applicants and All Employees**

- A. All employees are fingerprinted and screened pursuant to section 435.04, F.S., Level 2 and if applicable also pursuant to section 408.809, F.S., screening standards.
- B. Selected applicants and employees must attest they meet the requirements to qualify for employment and agree to inform the Department immediately if arrested or convicted of any of the disqualifying offenses listed on the attestation while employed. (Employees will continue to be required to report all arrests or notice of possible criminal prosecution, including any violation or infraction mandating a court appearance, to his or her immediate supervisor.) If a selected applicant or employee falsifies the attestation, it may be grounds for disqualification from employment. The attestation is completed by the Human Resources Manager using the DCF Web Portal at <http://apps1.dcf.state.fl.us/WebSecurity/login.aspx>, "Human Resources

- Background Screening Application (HRBGA)” under the “Systems” heading.
- C. A criminal history record reflecting an arrest for any offenses listed in section 435.04, F.S., or if applicable section 408.809, F.S., without an indication as to the final disposition of the charge shall be verified by the Clerk of the Court in the jurisdiction where the arrest was made or the case was adjudicated, as appropriate.
 - D. An employee who has an arrest pending disposition for a disqualifying offense under section 435.04, F.S., or if applicable section 408.809, F.S., shall have no contact with clients or access to client information until the case is disposed in a satisfaction allowing the employee’s continued adherence to this policy.
 - E. The applicant’s or employee’s employment application will be reviewed by the Human Resources Manager to verify the accuracy of the information provided about criminal history. Current employees will be subject to disciplinary action up to and including dismissal and an applicant for employment shall not be further considered for employment if it is determined there was a falsification by the employee or applicant of their employment application.
 - F. An employee shall be subject to termination if he/she is found guilty of, regardless of adjudication, or have entered a plea of nolo contendere or guilty to, any offense listed in section 435.04, F.S., or if applicable section 408.809, F.S., unless an exemption from disqualification has been granted pursuant to section 435.07 F.S.

III. Criminal History and Background Records Review for All Employees

- A. The entire criminal history and background records will be reviewed as provided in policy above. These reviews are necessary to determine if the actions, offenses and convictions would prohibit the person from working. Management shall ensure a review of any criminal history and background records is job related and free of any unlawful discrimination. Consideration is given to:
 - 1) Type of action or offense and final disposition;
 - 2) Position duties and responsibilities;
 - 3) Location of position;
 - 4) Nature of the crime or offense or action;
 - 5) Date offense or conviction occurred;
 - 6) Length of time since offense, action, or conviction;
 - 7) Circumstances surrounding the offense, action, or conviction; and
 - 8) Work history since the actions, offense(s) or conviction(s) occurred.

NOTE: Consideration should be given to EEOC Enforcement Guidance issued April 25, 2012, related to arrest and conviction records for employment purposes found at the following EEOC website:
http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm

- B. When reviewing the criminal record and background records against the position duties and responsibilities of the position, the review should take into consideration the nature of the crime, offense or action and the position duties.
- C. If a record contains any outstanding warrants, the Human Resources Manager will immediately contact the appropriate law enforcement agency(ies) of record, which will be listed on the criminal history record, and obtain all information

related to the warrant to determine if the warrant is still active.

IV. Final Review for Employment or Continued Employment

- A. The criminal history record review findings shall be documented on the Criminal History Record Review Checklist (form CF 757, available in DCF Forms), and submitted to the Chief Operations Officer for final approval of employment.

V. Re-Screening

- A. For continued employment, each employee is required to be re-screened at no more than five (5) year intervals following the completion of their initial screening. The servicing Human Resources Manager will be responsible for ensuring all employees are re-screened at no more than five (5) year intervals.
- B. An employee who has been background screened and cleared the background check within the last five (5) years does not have to be re-screened if the employee moves to another position within Concordia Behavioral Health provided the employee was screened previously against all applicable screening criteria.

VI. Confidentiality

- A. All information obtained through the fingerprint screening process is exempt from public disclosure as outlined in section 119.071(2), F.S.
- B. The sharing of FDLE criminal history information obtained through the screening process is restricted to employment purposes.
- C. The sharing of national criminal history information obtained through the screening process is restricted to state employment purposes and the information can only be shared between state governmental entities for that purpose.
- D. An applicant or employee may be shown their own criminal record and may be provided a copy. However, applicants or employees must be cautioned the record may not be used for any other purpose and they are not allowed to provide a copy of the record to any other organization.

VII. Penalties

- A. It is a misdemeanor of the first degree, punishable as provided in section 775.082, F.S., or section 775.083, F.S., for any person willfully, knowingly, or intentionally to:
 - 1) Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment a material fact used in making a determination as to such person's qualifications for a position of special trust.
 - 2) Use records information for purposes other than screening for employment or release records information to other persons for purposes other than screening for employment.
- B. It is a felony of the third degree, punishable as provided in section 775.082, section 775.083, or section 775.084, for any person willfully, knowingly, or intentionally to use juvenile records information for any purposes other than specified in this policy.

VIII. Records Retention Requirements

- A. Background investigative information, correspondence record checks, and any documentation relating to the review and investigation of the criminal history record check shall be maintained in a file separate and apart from the official personnel file. Such records shall be maintained for a period of four (4) years and until any litigation is resolved. For current employees these records may be retained until they separate from Concordia Behavioral Health.

Definitions

- A. **Applicant** – An individual who has applied for a position with Concordia Behavioral Health. Applicant also includes volunteers, interns, and mentors. This term does not include current employees who are placed in another position, promoted or demoted.
- B. **Criminal History Record Information (CHRI)** – Individual arrest and disposition records obtained from the United States Federal Bureau of Investigation (F.B.I.) through the Florida Department of Law Enforcement (FDLE). This information may include sealed, expunged, out-of-state, and certain juvenile criminal records.
- C. **Contracted Staff** - Contracted staff are deemed to be persons of special trust and responsibility pursuant to section 110.1127, F.S., and shall be fingerprinted and screened pursuant to section 435.04, F.S., Level 2, and if applicable section 408.809, F.S., screening standards.
- D. **Department or DCF** - The term used to describe or refer to the Florida Department of Children and Families.
- E. **Disqualifying Offense** – Offenses listed in Chapter 435, Florida Statutes that result in a person being ineligible for employment with the Department or a Department contracted/subcontracted provider.
- F. **Eligible Rating** – A rating given when the applicant has no charges, has criminal charges not prosecuted, or has been adjudicated, or has adjudication withheld, or pending criminal charges that do not appear on the list of disqualifying offenses.
- G. **Exemption from Disqualification** – Pursuant to Section 435.07, Florida Statutes, the Department’s review process established to allow an applicant with an ineligible rating for employment with the Department or with a Department contracted provider to be reconsidered and granted an exemption thus allowing the applicant to work for the Department or the provider.
- H. **Felony** - Any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or imprisonment in a state penitentiary or correctional facility for at least one (1) year and one (1) day.
- I. **Hire Date** - The date the employee is hired by Concordia Behavioral Health.
- J. **Hiring Authority** – The hiring authority refers to the individual most responsible for ensuring employees and volunteers hired and employed successfully complete a background screening. This individual shall receive results of the screening from the screening agency.
- K. **Human Resources Manager** -
- L. **Ineligible Rating** – A rating given to applicants whose criminal record contains a finding of guilty or a plea of nolo contendere (no contest), or

adjudication withheld for any of the offenses set forth in Section 435.04, Florida Statutes, under the Level 2 Screening Standards, or under any similar statute in another jurisdiction. Applicants receiving this rating shall not be employed unless an exemption from disqualification is granted.

- M. **Level 2 Screening Standards** – Specific statutory offenses listed in Section 435.04, Florida Statutes, which disqualify an applicant from employment in positions of trust or responsibility when the criminal history shows a finding or plea of guilty, regardless of adjudication, or a plea of nolo contendere (no contest) or adjudication withheld to one or more of the listed offenses.
- N. **Live Scan** - The process of electronically transmitting fingerprints to FDLE for employment background screening. This process produces the results of a criminal records search through the Florida Crime Information Center (FCIC) and the National Crime Information Center (NCIC).
- O. **Misdemeanor** - Any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by a term of incarceration in a county correctional facility, except an extended term, not in excess of one (1) year. The term misdemeanor does not include conviction for any non-criminal traffic violation of any provision of Chapter 316 or any municipal or county ordinance.
- P. **Rating** – The classification applied to an applicant's screening that determines if the applicant can or cannot work. The ratings that may be applied to an applicant's screening are eligible,
- Q. **Rescreen** - The employment screening check required of employees every five years of consecutive employment. The five-year rescreen date is calculated from the employee's hire date.