How To Participate in Today’s Webinar
1. Use your computer speakers or telephone for audio
2. Download and/or print the handout from your control panel
3. Use your control panel to submit questions in writing

What will NOT be covered Today
1. Will not identify how a particular rule is different from current ACF, Type 1, Type 2, Type 3, AFOH rules
2. Rules that will be covered in future webinars. This includes questions.
More About Questions

- The last session, on November 14, is a Q & A session.

- If there is any question that is not answered during the webinar, or you think of later, you can submit them to me in advance of the webinar, or if you have not yet registered for the webinar, you can submit the questions during the webinar registration process.

- E-mail questions to Janel.Pequignot@mha.ohio.gov with a subject line titled “Residential Webinar Question”
Can multiple staff watch the webinar together under one registration?
• Yes, unless each needs to receive credit for attending training.

Who should participate today:
• Type 1, Type 2, Type 3, ACF, Adult Foster Home providers
  • Currently licensed
  • Interested in obtaining licensure
• Interested stakeholders
  • Community ADAMH/MHRS Boards
  • Other stakeholders

Are These Rules Applicable to Certified SUD Residential Providers:
• NO!

Can I receive CEU Credit for my SW, Nurse, etc. License?
• No.
5122-30-31
Background Investigations For Employment

5122-30-31 (A)

(A) The purpose of this rule is to establish procedure for conducting criminal records checks for owners, operators, prospective operators, managers, staff, and other individuals who, if employed by a residential facility, would have unsupervised access to facility residents.
(B) Definitions.
(1) "Applicant" means a person who is under final consideration for employment with a residential facility.
(2) "Criminal records check" has the same meaning as is section 109.572 of the Revised Code.
(3) "Department" means the Ohio department of mental health and addiction services.
(4) "Direct services position" means an employment position in which the employee has the opportunity to be alone with or exercises supervision or control over one or more individuals.

(5) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (A)(3)(e) of section 109.572 of the Revised Code.
(6) "Employee" means a person employed or working as volunteer, in a direct services position by a residential facility.
(7) "Individual" means a resident of a residential facility.
(8) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.
(B) Definitions.

(9) "Multiple disqualifying offenses" means two or more convictions or guilty pleas to disqualifying offenses. Convictions or guilty pleas resulting from or connected with the same act, or resulting from offenses committed at the same time, shall be counted as one conviction or guilty plea.

(10) "Residential facility" has the same meaning as found in section 5119.34 of the Revised Code.

(C) Requirements for owners, operators, managers, and prospective operators.

(1) All requirements of this rule applicable to applicants shall also be applicable to owners, operators, managers, and non-resident occupants.

(2) An owner, operator, manager or prospective operator shall:

(a) Require an applicant to complete an employment application and provide the names and addresses of present and former employers; and

(b) Attempt to obtain references from the applicant's present and former employers and maintain written evidence that reference checks were attempted and/or completed.
(C) Requirements for owners, operators, managers, and prospective operators.

(3) An owner, operator, manager, or prospective operator shall check each of the following databases to determine if the applicant is included:


(b) The abuser registry established pursuant to section 5123.52 of the Revised Code (available at https://its.prodapps.dodd.ohio.gov/abr_default.aspx);

(c) The nurse aide registry established pursuant to section 3721.32 of the Revised Code (available at https://odhgateway.odh.ohio.gov/nar/nar_registry_search.aspx), and if there is a statement detailing finding by the director of the Ohio department of health that the applicant or employee neglected or abused a resident of a long-term care facility or residential care facility or misappropriated property of such a resident;
(C) Requirements for owners, operators, managers, and prospective operators.

(3) An owner, operator, manager, or prospective operator shall check each of the following databases to determine if the applicant is included:

(d) The sex offender and child-victim offender database established pursuant to division (A)(11) of section 2950.13 of the Revised Code (available at http://www.icrimewatch.net/index.php?AgencyID=55149&disc=);

(e) The United States general services administration system for award management database (available at https://www.sam.gov/); and,


➤ NOTE: DRC will redirect to a new website at https://appgateway.drc.ohio.gov/OffenderSearch
(C) Requirements for owners, operators, managers, and prospective operators.

(3) An owner, operator, manager, or prospective operator shall check each of the following databases to determine if the applicant is included:

The owner, operator, manager or prospective operator shall maintain written evidence of the results of these database checks.

(4) A residential facility shall not employ an application or continue to employ an employee if the applicant or employee is included in one or more of the databases described in paragraph (C)(3) of this rule.

(5) A residential facility shall verify that an applicant has a valid motor vehicle operator's license and obtain a driving record prepared by the bureau of motor vehicles if the duties of the position for which the applicant has applied require the applicant to transport individuals or to operate the responsible entity's vehicles for any other purpose. A person having six or more points on his or her driving record is prohibited from transporting individuals.
(6) Prior to employing an applicant, a residential facility shall require an applicant to:

(a) Submit a statement to the residential facility with the applicant's signature attesting that he or she has not been convicted of or pleaded guilty to a disqualifying offense. An applicant or employee shall disclose to the residential facility a conviction for any offense that has been sealed; and,

(b) Sign an agreement under which the applicant agrees to notify the residential facility within fourteen calendar days if, while employed by the residential facility, the applicant is formally charged with, is convicted of, or pleads guilty to a disqualifying offense. The agreement shall provide that failure to make the notification may result in termination of the applicant's employment.
(C) Requirements for owners, operators, managers, and prospective operators.

(7) A residential facility shall request the bureau of criminal identification and investigation, or any other state or federal agency designated by the director, to conduct a criminal records check of an applicant.

(a) If an applicant does not present proof that he or she has been a resident of Ohio for the five-year period immediately prior to the date upon which the criminal records check is requested, the residential facility shall request that the reporting agency obtain information from the federal bureau of investigation as part of the criminal records check.

(b) If an applicant presents proof that he or she has been a resident of Ohio for the five-year period immediately prior to the date upon which the criminal records check is requested, the residential facility may request that the reporting agency obtain information from the federal bureau of investigation as part of the criminal records check....
(C) Requirements for owners, operators, managers, and prospective operators.

(7) A residential facility shall request the bureau of criminal identification and investigation, or any other state or federal agency designated by the director, to conduct a criminal records check of an applicant.

(b) ... For purposes of this paragraph, an applicant may provide proof of Ohio residency by presenting, with a notarized statement asserting that he or she has been a resident of Ohio for that five-year period, a valid driver's license, notification of registration as an elector, a copy of an officially filed federal or state tax form identifying the applicant's permanent residence, or any other document the residential facility considers acceptable.

(8) A residential facility may conditionally employ an applicant, for a period not to exceed sixty days, pending receipt of information concerning the applicant's criminal records check once the applicant submits to the responsible entity the statement required by paragraph (C)(6)(a) of this rule. The residential facility shall terminate the applicant's employment if it is informed that the applicant has been convicted of or pleaded guilty to a disqualifying offense.
(C) Requirements for owners, operators, managers, and prospective operators.

(9) A residential facility shall, at a frequency of no less than once every five years, check the databases specified in paragraph (C)(3) of this rule and request the bureau of criminal identification and investigation, or any other state or federal agency designated by the director, to conduct a criminal records check for each employee in a direct services position.

(a) If an employee in a direct services position does not present proof that he or she has been a resident of Ohio for the five-year period immediately prior to the date upon which the criminal records check is requested, the residential facility shall request that the reporting agency obtain information from the federal bureau of investigation as part of the criminal records check.

(b) If an employee in a direct services position presents proof that he or she has been a resident of Ohio for the five-year period immediately prior to the date upon which the criminal records check is requested, the residential facility may request that the reporting agency obtain information from the federal bureau of investigation as part of the criminal records check....
(C) Requirements for owners, operators, managers, and prospective operators.

(9) A residential facility shall, at a frequency of no less than once every five years, check the databases specified in paragraph (C)(3) of this rule and request the bureau of criminal identification and investigation, or any other state or federal agency designated by the director, to conduct a criminal records check for each employee in a direct services position.

(b)...

For purposes of this paragraph, an employee in a direct services position may provide proof of Ohio residency by presenting, with a notarized statement asserting that he or she has been a resident of Ohio for that five-year period, a valid driver's license, notification of registration as an elector, a copy of an officially filed federal or state tax form identifying the employee's permanent residence, or any other document the residential facility considers acceptable.

(D) Disqualifying offenses.

(1) There are five tiers of disqualifying offenses with corresponding time periods that preclude an applicant from being employed or an employee from remaining employed by a residential facility.

(a) Tier one: permanent exclusion.
No residential facility shall employ an applicant or continue to employ an employee if the applicant or employee has been convicted of or pleaded guilty to any of the following sections of the Revised Code:

[SEE RULE FOR LIST OF DISQUALIFYING OFFENSES]
(D) Disqualifying offenses.

(1) There are five tiers of disqualifying offenses with corresponding time periods that preclude an applicant from being employed or an employee from remaining employed by a residential facility.

(b) No residential facility shall employ an applicant or continue to employ an employee, if the applicant or employee has been convicted of an offense, where the victim of the offense was one of the following:

(i) A person under eighteen years of age.

(ii) A functionally impaired person as defined in section 2903.10 of the Revised Code.

(iii) A mentally retarded person as defined in section 5123.01 of the Revised Code.

(iv) A developmentally disabled person as defined in section 5123.01 of the Revised Code.

(v) A person with a mental illness as defined in section 5122.01 of the Revised Code.

(vi) A person sixty years of age or older.
(c) Tier two: ten-year exclusion.
No residential facility shall employ an applicant or continue to employ an employee, for a period of ten years from the date the applicant or employee was fully discharged from imprisonment, probation, and parole, if the applicant or employee has been convicted of or pleaded guilty to any of the following sections of the Revised Code:

[SEE RULE FOR LIST OF DISQUALIFYING OFFENSES]

(d) Tier three: seven-year exclusion.
No residential facility shall employ an applicant or continue to employ an employee, for a period of seven years from the date the applicant, or employee was fully discharged from imprisonment, probation, and parole, if the applicant or employee has been convicted of or pleaded guilty to any of the following sections of the Revised Code:

[SEE RULE FOR LIST OF DISQUALIFYING OFFENSES]
(D) Disqualifying offenses.
(1) There are five tiers of disqualifying offenses with corresponding time periods that preclude an applicant from being employed or an employee from remaining employed by a residential facility.

(e) Tier four: five-year exclusion.
No residential facility shall employ an applicant or continue to employ an employee, for a period of five years from the date the applicant or employee was fully discharged from imprisonment, probation, and parole, if the applicant or employee has been convicted or pleaded guilty to any of the following sections of the Revised Code:
[SEE RULE FOR LIST OF DISQUALIFYING OFFENSES]

(f) Tier five: no exclusion.
A residential facility may employ an applicant or continue to employ an employee, if the applicant or employee has been convicted of or pleaded guilty to any of the following sections of the Revised code:
[SEE RULE FOR LIST OF DISQUALIFYING OFFENSES]
5122-30-31 (D) (continued)

(D) Disqualifying offenses.

(2) Multiple disqualifying offenses.

(a) If an applicant or employee has been convicted of or pleaded guilty to the following multiple disqualifying offenses, the applicant or employee is subject to a fifteen-year exclusion period:

(i) two or more disqualifying offenses listed in paragraph (D)(1)(c) of this rule; or,
   ➢ i.e. two or more 10 year exclusion offenses

(ii) an offense listed in paragraph (D)(1)(c) of this rule and one or more offenses listed in paragraph (D)(1)(d) of this rule or paragraph (D)(1)(e) of this rule.
   ➢ i.e. a 10 year exclusion plus at least one seven or five year exclusion offense

(b) If an applicant or employee has been convicted of or pleaded guilty to the following multiple disqualifying offenses, the applicant or employee is subject to a ten-year exclusion:

(i) Two or more disqualifying offenses listed in paragraph (D)(1)(d) of this rule; or,
   ➢ i.e. two or more seven year exclusion offenses

(ii) An offense listed in paragraph (D)(1)(d) of this rule and one or more offenses listed in paragraph (D)(1)(e) of this rule.
   ➢ i.e. a seven year exclusion plus at least one five year exclusion

(continued)
(D) Disqualifying offenses.
(2) Multiple disqualifying offenses.

(c) If an applicant or employee has been convicted of, or pleaded guilty to, two or more disqualifying offenses listed in paragraph (D)(1)(e) of this rule, the applicant or employee is subject to a seven-year exclusion:

- i.e. two or more five year exclusion offenses

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(E) A conviction of or plea of guilty to a disqualifying offense listed or described in paragraph (D)(1) of this rule shall not preclude an applicant from being employed or an employee from remaining employed by a responsible entity under the following circumstances:

(1) The applicant or employee has been granted an unconditional pardon for the offense pursuant to Chapter 2967. of the Revised Code;

(2) The applicant or employee has been granted an unconditional pardon for the offense pursuant to an existing or former law of this state, any other state, or the United States, if the law is substantially equivalent to Chapter 2967. of the Revised Code;
A conviction of or plea of guilty to a disqualifying offense listed or described in paragraph (D)(1) of this rule shall not preclude an applicant from being employed or an employee from remaining employed by a responsible entity under the following circumstances:

(3) The applicant's or employee's conviction or guilty plea has been overturned pursuant to law;
(4) The applicant or employee has been granted a conditional pardon for the offense pursuant to Chapter 2967. of the Revised Code and the conditions under which the pardon was granted have been satisfied;

(5) The applicant's or employee's conviction or guilty plea is not for an offense listed or described in paragraph (D)(1)(a) of this rule and the applicant or employee has a certificate of qualification for employment issued by a court of common pleas with competent jurisdiction pursuant to section 2953.25 of the Revised Code; or
(E) A conviction of or plea of guilty to a disqualifying offense listed or described in paragraph (D)(1) of this rule shall not preclude an applicant from being employed or an employee from remaining employed by a responsible entity under the following circumstances:

(6) The applicant's or employee's conviction or guilty plea is not for an offense listed or described in paragraph (D)(1)(a) of this rule and the applicant or employee has a certificate of achievement and employability in a home and community-based services-related field, issued by the Ohio department of rehabilitation and correction pursuant to section 2961.22 of the Revised Code.

(F) A residential facility may continue to employ a person who is excluded by paragraph (D)(1)(e) of this rule if the conviction for a tier four offense occurred prior to the effective date of this rule, the employee was hired prior to the effective date of this rule, and if the residential facility has considered the nature and seriousness of the offense and attests in writing to the character and fitness of the person based on the person's demonstrated work performance. The residential facility shall make this determination within three months after the effective date of this rule and shall maintain the written attestation in the employee's personnel record. The determination shall be subject to review by the department.
Any report obtained pursuant to this rule is not a public record for purposes of section 149.43 of the Revised Code and shall not be made available to any person other than:

1. The applicant or employee who is the subject of the report or the applicant's, or employee's representative;
2. The residential facility that requested the report or its representative;
3. The department, if the department requests the residential facility to provide a copy of the report to the department;
4. A court, hearing officer, or other necessary person involved in a case dealing with the denial of employment to the applicant or employee, or a civil or criminal action regarding the medicaid program or a program the department administers.
5122-30-31 (H)(I)

(H) For purposes of this rule, reports from the bureau of criminal identification and investigation, or any other state or federal agency regarding a person's criminal record, and records supplied by the bureau of motor vehicles regarding a person's record of convictions for violations of motor vehicle laws are valid for a period of one year from the date of the report.  
(I) A residential facility shall ensure the safety of residents in any situation in which a non-employee is living in the facility.

Demonstrate Searching Each Database

- USHHS list of excluded persons and entities  

- DODD abuser registry  
  ➢ [https://its.prodapps.dodd.ohio.gov/abr_default.aspx](https://its.prodapps.dodd.ohio.gov/abr_default.aspx)

- Nurse aide registry  
  o statement detailing finding that applicant or employee neglected or abused a resident of a long-term care facility or residential care facility or misappropriated property of such a resident  
  ➢ [https://odhgateway.odh.ohio.gov/nar/nar_registry_search.aspx](https://odhgateway.odh.ohio.gov/nar/nar_registry_search.aspx)
Demonstrate Searching Each Database

- Sex offender and child-victim offender database

- US GSA Award Management Database
  - https://www.sam.gov/

- Incarcerated and supervised offenders
  - https://appgateway.drc.ohio.gov/OffenderSearch
  - Note: This is not the web address listed in the rule

Webcheck Locations

To find locations in your community where an applicant, staff, owner, operator etc can obtain a BCI and FBI report
http://www.ohioattorneygeneral.gov/Business/Services-for-Business/WebCheck/Webcheck-Community-Listing
5122-30-31 (C) (repeated)

(C) Requirements for owners, operators, managers, and prospective operators.

(I) An owner, operator, manager, or prospective operator shall check each of the following databases to determine if the applicant is included:

The owner, operator, manager or prospective operator shall maintain written evidence of the results of these database checks.

- Hard copy employee file
  - Print results directly
- Employee electronic file (on computer)
  - Save files directly from the website, when offered
  - Print or snip screen, cut and paste to word file (can also print from here)
  - Snip screen and save in employee electronic file

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**Print Screen or Cut and Paste**

**Print Screen**
1. Open blank word document
2. Go to webpage you want to “copy”
3. From computer keyboard, hit “print screen”
4. Paste into word document

**Snipping Tool (if available on your computer)**
1. Go to webpage you want to “copy”
2. Open snipping tool from programs (start menu)
3. Follow instructions
Driving Record

For driving record (for those staff who transport residents or drive facility vehicles)
http://www.bmv.ohio.gov/more-record-types.aspx

Steps for Potential Hires

1. Applicant completes application for hire
2. Attempt to check references of current and former employers
3. Check the six databases/registries

If a person is listed on one or more registry, stop, you are finished. You cannot hire the individual.
Steps for Potential Hires

4. Check driving records, if applicable
5. Have potential employee sign statement he/she has not been pled/found guilty of a disqualifying offense, and he/she will notify facility within 14 days if charged with or pled or found guilty of a disqualifying offense

At this point, you may conditionally employ individual for up to sixty days

Steps for Potential Hires

6. Verify whether Ohio resident during all of past five years
7. Request BCI aka BCII check
8. Request FBI check if not Ohio resident during all of past five years
   • May still request FBI check if Ohio resident during all of past five years
9. Review results of background check(s) when received
10. Do not hire or terminate (if conditionally hired) individual if convicted of one or more disqualifying offenses
**On-Going Requirements**

At least every five years of an individual’s employment:

1. Check six databases

If a person is listed on one or more registry, **stop**, you are finished. You must terminate this individual.

2. Verify whether Ohio resident during all of past five years
3. Request BCI aka BCII check

**On-Going Requirements**

At least every five years of an individual’s employment:

4. Request FBI check if not Ohio resident during all of past five years
   - May still request FBI check if Ohio resident during all of past five years

5. Review results of background check(s) when received
6. Terminate if convicted of one or more disqualifying offenses
Where Can I Find All of the New Rules?

Where Can I Find All of the New Rules?

[Diagram showing a computer interface with multiple tabs and windows, presumably related to regulations or policies.]
You must register individually for each webinar in which you intend to participate
MHAS Training Page Includes Webinar Information and recorded webinars
Live webinars are recorded for those who are unable to participate, and to utilize as a training and reference resource
Should webinar recording error occur, MHAS will record a webinar on same topic and post
Posted along with webinar handouts

Current Webinar Schedule (and link to registration) is available at:
http://mha.ohio.gov/Portals/0/assets/Regulation/LicensureAndCertification/LC-Communications/Residential-Rules-Webinar-Training-Schedule-Registration.pdf
Final Webinar – Q & A

- Remember to e-mail advance questions with subject line “Residential Webinar Question”
  - Janel.Pequignot@mha.ohio.gov

<table>
<thead>
<tr>
<th>Session #</th>
<th>Date (2017)</th>
<th>Time</th>
<th>Rule Numbers</th>
<th>Rule Titles</th>
<th>Who Should Attend</th>
<th>Registration Link</th>
</tr>
</thead>
<tbody>
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<td>Q &amp; A</td>
<td>11/14</td>
<td>1:30 pm – 3:30 pm</td>
<td>N/A</td>
<td>Final Q &amp; A</td>
<td>All</td>
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Questions?

Note: For future questions, each facility has an assigned lead surveyor, who can also answer questions.