



Notice to Residential Facility Providers of Revisions and New Requirements in OAC 5122-30-31 Background Investigations for Employment

Effective 10/1/2020

Mike DeWine, Governor
Lori Criss, Director

Overview of Changes

Criminal background checks, including BCI and FBI checks, are required for all employees, volunteers and interns and not limited to staff in direct services positions.

New staff hired on or after October 1, 2020

Effective October 1, 2020, Ohio Attorney General Bureau of Criminal Investigation (BCI) and Federal Bureau of Investigation (FBI) criminal record and database checks must be completed, and the results held on file at the Residential Facility Provider agency prior to hiring of an employee and the employee beginning work at the facility. "Completed" means the Residential Facility Provider has received the criminal record and database check results from both BCI and FBI, has reviewed the results to ensure the applicant has not been convicted of a disqualifying offense listed or described in divisions (A)(3)(a) to (A)(3)(e) of section 109.572 of the Revised Code.

The following databases must also be checked for all employees, volunteers and interns and updated every 4 years:

1. The list of excluded persons and entities maintained by the Office of Inspector General in the United States Department of Health and Human Services pursuant to section 1128 of the Social Security Act, 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, and section 1156 of the Social Security Act, 96 Stat. 388 (1982), 42 U.S.C. 1320c-5 (available at <https://exclusions.oig.hhs.gov/>)
2. The abuser registry established pursuant to section 5123.52 of the Revised Code (available at <https://its.prodapps.dodd.ohio.gov/abrdefault.aspx>);
3. 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 a 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;
4. The United States Department of Justice national public website (available at <https://www.nsopw.gov/>).
5. The United States general services administration system for award management database (available at <https://www.sam.gov/>); and,
6. The database of incarcerated and supervised offenders established pursuant to section 5120.066 of the Revised Code (available at <https://appgateway.drc.ohio.gov/OffenderSearch>).

Existing Staff on or after October 1, 2020

Effective October 1, 2020, BCI criminal background checks are required to be updated every 4 years, instead of the current 5 year timeframe, for all current employees.

Agency operators must request a BCI record check if one has not been completed within the last four years. If a BCI check was completed less than four years ago, the next BCI check must be completed within four years of the completion date of the previous check.

In addition, FBI checks are now required for all employees and required to be updated every 4 years. Agencies must request the FBI record check if one has not been previously completed by the facility/agency. If the facility/agency had completed an FBI check, it must be updated if it was completed more than 4 years ago. If a FBI check was completed

less than four years ago, the next FBI check must be completed within four years of the completion date of the previous check.

All agencies/facilities must complete a search of the United States Department of Justice national sex offender public website regarding the current employee as this is a new requirement effective 10/1/20. The website is located at: <https://www.nsopw.gov/>.

Residential Facilities serving adults will have until 12/31/20 to complete the required updated and additional database checks for current employees.

Residential Facilities serving children are required to meet the requirements by 10/1/20 as these programs were previously notified of the requirements.

The OhioMHAS rule Background investigations for employment (5122 – 30 – 31) can be found here: https://mha.ohio.gov/Portals/0/assets/AboutUs/Regulation/Rules/5122-30-31%20Final%20File.pdf?ver=cq_u9BhvPZpZDEWsbILUsQ%3d%3d

If you have any questions or need additional information please contact your assigned Behavioral Health Standards Surveyor or Licensing/Certification at (614) 752-0880 or liccert@mha.ohio.gov.