

WAC 388-97-1800 Criminal history disclosure and background inquiries. (1) As used in this section, the term "nursing home" includes a nursing facility and a skilled nursing facility.

(2) The nursing home must:

(a) Have a valid criminal history background check for any individual employed, directly or by contract, or any individual accepted as a volunteer or student who may have unsupervised access to any resident; and

(b) Repeat the check every two years.

(3) A nursing home licensed under chapter 18.51 RCW, or nursing facility or skilled nursing facility must make a background inquiry request to one of the following:

(a) The department;

(b) The most recent employer licensed under chapters 18.51, 18.20, and 70.128 RCW provided termination of that employment was within twelve months of the current employment application and provided the inquiry was completed by the department or the Washington state patrol within the two years of the current date of application; or

(c) A nurse pool agency licensed under chapter 18.52C RCW, or hereafter renamed, provided the background inquiry was completed by the Washington state patrol within two years before the current date of employment in the nursing home.

(4) A nursing home may not rely on a criminal background inquiry from a former employer, including a nursing pool, if the nursing home knows or has reason to know that the individual applying for the job is, or may be disqualified under the requirements of WAC 388-97-1820.

(5) Nursing homes must:

(a) Request a background inquiry of any individual employed, directly or by agreement or contract, or accepted as a volunteer or student; and

(b) Notify the appropriate licensing or certification agency of any individual who resigns or is terminated because he or she is disqualified from employment under WAC 388-97-1820.

(6) Before a nursing home employs any individual, directly or by contract, or accepts any individual as a volunteer or student, a nursing home must:

(a) Inform the individual that the nursing home must make a background inquiry and require the individual to sign a disclosure statement, under penalty of perjury and in accordance with RCW 43.43.834;

(b) Inform the individual that he or she may request a copy of the results of the completed background inquiry described in this section; and

(c) Require the individual to sign a statement authorizing the nursing home, the department, and the Washington state patrol to make a background inquiry; and

(d) Verbally inform the individual of the background inquiry results within seventy-two hours of receipt.

(7) The nursing home must establish procedures ensuring that:

(a) The individual is verbally informed of the background inquiry results within seventy-two hours of receipt;

(b) All disclosure statements and background inquiry responses and all copies are maintained in a confidential and secure manner;

(c) Disclosure statements and background inquiry responses are used for employment purposes only;

(d) Disclosure statements and background inquiry responses are not disclosed to any individual except:

- (i) The individual about whom the nursing home made the disclosure or background inquiry;
 - (ii) Authorized state employees including the department's licensure and certification staff, resident protection program staff and background inquiry unit staff;
 - (iii) Authorized federal employees including those from the Department of Health and Human Services, Centers for Medicare and Medicaid Services;
 - (iv) The Washington state patrol auditor; and
 - (v) Potential employers licensed under chapters 18.51, 18.20, and 70.128 RCW who are making a request as provided for under subsection (1) of this section.
- (e) A record of findings be retained by the nursing home for twelve months beyond the date of employment termination.

[Statutory Authority: RCW 74.39A.056 and chapters 74.42, 18.51 RCW. WSR 14-14-027, § 388-97-1800, filed 6/24/14, effective 7/25/14. Statutory Authority: Chapters 18.51 and 74.42 RCW. WSR 10-02-021, § 388-97-1800, filed 12/29/09, effective 1/29/10. Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. WSR 08-20-062, § 388-97-1800, filed 9/24/08, effective 11/1/08.]