

- 1 Section 11. Other laws.
- 2 Section 12. Report to General Assembly.
- 3 Section 13. Applicability.
- 4 Section 14. Severability.
- 5 Section 15. Effective date.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Hospital
10 Employee Background Check Act.

11 Section 2. Declaration of policy.

12 It is declared the policy of this Commonwealth that the
13 commission of any offense that constitutes serious physical harm
14 or a threat of serious physical harm or conduct which evidences
15 a reckless disregard for the vulnerability of hospital or other
16 care-dependent populations legitimately warrants a lifetime ban
17 on employment in hospitals covered under this act. Further, for
18 hospitals covered under this act, it is the policy of this
19 Commonwealth that the commission of any offenses related to
20 misappropriation or misuse of property or convictions which
21 involved inappropriate or irresponsible behavior legitimately
22 warrants a ban on employment for a period of ten years
23 immediately preceding the date of the report, not including any
24 time spent in incarceration.

25 Section 3. Definitions.

26 The following words and phrases when used in this act shall
27 have the meanings given to them in this section unless the
28 context clearly indicates otherwise:

29 "Applicant." An individual who submits an application to and
30 is being considered for employment by a hospital.

1 "Department." The Department of Health of the Commonwealth.

2 "Employee." An individual who has direct contact with
3 patients or unsupervised access to patient rooms and is either
4 employed by a hospital or a contract employee, acts in a
5 managerial capacity or is a student or intern.

6 "Hospital." An entity licensed as a hospital under the act
7 of June 13, 1967 (P.L.31, No.21), known as the Public Welfare
8 Code, or the act of July 19, 1979 (P.L.130, No.48), known as the
9 Health Care Facilities Act.

10 "State Police." The Pennsylvania State Police.

11 Section 4. Information relating to prospective hospital
12 personnel.

13 (a) General rule.--A hospital shall require all applicants
14 to submit with their applications the following information
15 obtained within the preceding one-year period:

16 (1) Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal
17 history record information), a report of criminal history
18 record information from the State Police or a statement from
19 the State Police that their central repository contains no
20 such information relating to that person. The criminal
21 history record information shall be limited to that which is
22 disseminated pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to
23 general regulations).

24 (2) Where the applicant is not or, for the two years
25 immediately preceding the date of application, has not been a
26 resident of this Commonwealth, a hospital shall require the
27 applicant to submit with the application for employment a
28 report of Federal criminal history record information
29 pursuant to the Federal Bureau of Investigation's
30 appropriation under the Department of State, Justice, and

1 Commerce, the Judiciary, and Related Agencies Appropriation
2 Act, 1973 Public Law 92-544, 86 Stat. 1109. The department
3 shall be the intermediary for the purposes of this paragraph.
4 For the purposes of this paragraph, the applicant shall
5 submit a full set of fingerprints to the State Police, which
6 shall forward them to the Federal Bureau of Investigation for
7 a national criminal history record check. The information
8 obtained from the criminal history record check shall be used
9 by the department to determine the applicant's eligibility.
10 The determination shall be submitted to the hospital by the
11 applicant prior to commencing employment. The hospital shall
12 ensure confidentiality of the information.

13 (b) Fees.--The State Police may charge the applicant a fee
14 of not more than \$10 to conduct the criminal record check
15 required under subsection (a)(1). The State Police may charge a
16 fee of not more than the established charge by the Federal
17 Bureau of Investigation for the criminal history record check
18 required under subsection (a)(2). The State Police shall develop
19 a billing system to allow hospitals to assume responsibility for
20 the fee under this subsection. The State Police shall allow
21 hospitals to establish an account for quarterly payment.

22 Section 5. Grounds for denying employment.

23 (a) Lifetime bans.--In no case shall a hospital hire an
24 applicant required to submit information pursuant to section
25 4(a) (relating to information relating to prospective hospital
26 personnel) or retain an employee required to submit information
27 pursuant to section 13 (relating to applicability), if the
28 applicant's or employee's criminal history record information
29 indicates the applicant or employee has been convicted of any of
30 the following offenses:

1 (1) An offense under one of the following provisions of
2 18 Pa.C.S. (relating to crimes and offenses) which is graded
3 as a felony:

4 Chapter 25 (relating to criminal homicide).

5 Section 2702 (relating to aggravated assault), if it is
6 graded as a felony of the first degree.

7 Section 2709.1 (relating to stalking).

8 Section 2713 (relating to neglect of care-dependent
9 person).

10 Section 2901 (relating to kidnapping).

11 Section 3121 (relating to rape).

12 Section 3123 (relating to involuntary deviate sexual
13 intercourse).

14 Section 3124.1 (relating to sexual assault).

15 Section 3125 (relating to aggravated indecent assault).

16 Section 3301 (relating to arson and related offenses).

17 Section 3701 (relating to robbery).

18 Section 4302 (relating to incest).

19 Section 4304 (relating to endangering welfare of
20 children).

21 Section 6312 (relating to sexual abuse of children).

22 Section 6320 (relating to sexual exploitation of
23 children).

24 (2) An offense under one of the following provisions of
25 18 Pa.C.S. which is graded as a misdemeanor:

26 Section 2713 (relating to neglect of care-dependent
27 person).

28 Section 3126 (relating to indecent assault).

29 Section 4305 (relating to dealing in infant children).

30 (3) A Federal or out-of-State offense similar in nature

1 to any offense listed in paragraph (1) or (2).

2 (b) Ten-year ban.--In no case may a hospital hire an
3 applicant required to submit information pursuant to section
4 4(a) or retain an employee required to submit information
5 pursuant to section 13 if the applicant's or employee's criminal
6 history record information as supplemented under subsection (c)
7 indicates the applicant or employee has been convicted, within
8 ten years immediately preceding the date of the report, not
9 including any time spent in incarceration, of any of the
10 following offenses:

11 (1) An offense graded a felony under the act of April
12 14, 1972 (P.L.233, No.64), known as The Controlled Substance,
13 Drug, Device and Cosmetic Act.

14 (2) An offense under one of the following provisions of
15 18 Pa.C.S. which is graded as a felony:

16 Section 2702, if it is graded as a felony of the second
17 degree.

18 Section 2902 (relating to unlawful restraint).

19 Section 3122.1 (relating to statutory sexual assault).

20 Section 3502 (relating to burglary).

21 Section 3702 (relating to robbery of motor vehicle).

22 Section 4101 (relating to forgery).

23 Section 4952 (relating to intimidation of witnesses or
24 victims).

25 Section 4953 (relating to retaliation against witness,
26 victim or party).

27 Section 5902 (relating to prostitution and related
28 offenses).

29 Section 5903(c) or (d) (relating to obscene and other
30 sexual materials and performances).

1 (3) An offense under one of the following provisions of
2 18 Pa.C.S. which is graded as a misdemeanor:

3 Section 2504 (relating to involuntary manslaughter).

4 Section 2902.

5 Section 3127 (relating to indecent exposure).

6 Section 4101.

7 Section 4114 (relating to securing execution of documents
8 by deception).

9 Section 4303 (relating to concealing death of child).

10 Section 6301(a)(1) (relating to corruption of minors).

11 (4) A felony offense under 18 Pa.C.S. Ch. 39 (relating
12 to theft and related offenses) or two or more misdemeanors
13 under 18 Pa.C.S. Ch. 39.

14 (5) A Federal or out-of-State offense similar to any
15 offense listed in paragraph (1), (2), (3) or (4).

16 (c) Duty of applicant or employee.--An applicant or employee
17 required to submit information under section 4(a) or 13 and
18 sentenced for an offense enumerated under subsection (b) shall
19 provide the hospital with documentation of time spent in
20 incarceration and the date of release from incarceration.

21 (d) Right of review.--An applicant or employee may review,
22 challenge and appeal the completeness or accuracy of that
23 applicant's or employee's criminal history report under 18
24 Pa.C.S. Ch. 91 (relating to criminal history record
25 information). An applicant or employee may challenge the
26 decision of the department involving the Federal criminal
27 history record by filing an appeal with the department in
28 accordance with 2 Pa.C.S. (relating to administrative law and
29 procedure).

30 Section 6. Regulations.

1 The department shall promulgate the regulations necessary to
2 carry out the provisions of this act.

3 Section 7. Violations.

4 (a) Administrative.--

5 (1) A hospital which fails to comply with the provisions
6 of this act commits a violation of this act and shall be
7 subject to an administrative penalty under paragraph (2).

8 (2) The Commonwealth agency or Commonwealth agencies
9 which license a hospital shall have jurisdiction to determine
10 violations of this act and may issue an order assessing a
11 civil penalty of not more than \$10,000. An order under this
12 paragraph shall be subject to 2 Pa.C.S. Chs. 5 Subch. A
13 (relating to practice and procedure of Commonwealth agencies)
14 and 7 Subch. A (relating to judicial review of Commonwealth
15 agency action).

16 (b) Criminal.--A person who intentionally or willfully fails
17 to comply or obstructs compliance with this act commits a
18 misdemeanor of the third degree and shall, upon conviction, be
19 sentenced to pay a fine of \$2,500 or to imprisonment for not
20 more than one year, or both.

21 Section 8. Conditional employees for limited periods.

22 Notwithstanding the provisions of this act, a hospital may
23 employ applicants on a conditional basis for a single period not
24 to exceed 30 days or, for applicants under section 4(a)(2)
25 (relating to information relating to prospective hospital
26 personnel), a period of 90 days, if all of the following
27 criteria are met:

28 (1) The applicant has applied for the information
29 required under section 4 and the applicant provides a copy of
30 the appropriate completed request forms to the hospital.

1 (2) The hospital has no knowledge of information
2 pertaining to the applicant which would disqualify the
3 applicant from employment pursuant to section 5 (relating to
4 grounds for denying employment), subject to 18 Pa.C.S. § 4911
5 (relating to tampering with public records or information).

6 (3) The applicant swears or affirms in writing that the
7 applicant is not disqualified from employment under section
8 5.

9 (4) If the information obtained under section 4 reveals
10 that the applicant is disqualified from employment under
11 section 5, the applicant shall be immediately dismissed by
12 the hospital.

13 Section 9. Requirements concerning current hospital employees.

14 The following shall apply:

15 (1) If the information obtained under section 4
16 (relating to information relating to prospective hospital
17 personnel) reveals that an individual currently employed at a
18 hospital is disqualified from employment under section 5(b)
19 (relating to grounds for denying employment), the individual
20 shall either, at the option of the hospital, be placed on
21 suspension without pay or continue employment under
22 supervision with no unsupervised direct contact with
23 patients.

24 (2) Within 30 days of the effective date of this
25 section, each hospital shall provide copies of this section
26 to all current hospital employees.

27 Section 10. Civil immunity.

28 A hospital may not be held civilly liable for any action
29 directly related to good faith compliance with this act.

30 Section 11. Other laws.

1 This act does not supersede background check-employment
2 restrictions imposed by another law if the other law is deemed
3 applicable to a hospital or portion of a hospital.

4 Section 12. Report to General Assembly.

5 No later than one year following the effective date of this
6 section, the State Police and the department shall report to the
7 Public Health and Welfare Committee of the Senate and the Health
8 and Human Services Committee of the House of Representatives
9 with their findings and recommendations regarding the
10 implementation of this act.

11 Section 13. Applicability.

12 This act shall apply as follows:

13 (1) (i) An individual who, on the effective date of
14 this section, is a current employee of a hospital shall,
15 within 12 months of the effective date of this section,
16 comply with section 4 as a condition of continued
17 employment.

18 (ii) Criminal history record information which meets
19 the requirements of section 4 was obtained within the
20 four-year period preceding the effective date of this
21 section and was submitted to a hospital prior to the
22 effective date of this section shall be deemed current
23 for the purposes of subparagraph (i) upon review for
24 compliance with section 5 by the appropriate entity.

25 (2) An employee who has obtained the information
26 required under section 4 may transfer to another hospital
27 established and supervised by the same owner and shall not be
28 required to obtain additional reports before making the
29 transfer.

30 Section 14. Severability.

1 The provisions of this act are severable. If any provision of
2 this act or its application to any person or circumstance is
3 held invalid, the invalidity shall not affect other provisions
4 or applications of this act which can be given effect without
5 the invalid provision or application.

6 Section 15. Effective date.

7 This act shall take effect in 60 days.