

Rulemaking Hearing Rules  
of  
Tennessee Commission on Aging and Disability

Chapter 0030-1-6  
Requirement to Verify Background Information for New Employees and Volunteers

New Rules

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0030-1-6-.01 Purpose.

- (1) The Commission on Aging and Disability requires all contractors, grantees, subcontractors and service providers to verify individual background information for newly-hired employees and volunteers who provide direct care for, have direct contact with, or have direct responsibility for the safety and care of disabled or elderly persons in their homes.

0030-1-6-.02 Minimum Requirements.

- (1) The following requirements shall be considered minimum requirements. Any provider agency subject to this part shall have the option to make more intensive background checks provided that the agency has established in writing the criteria and process for such checks.

0030-1-6-.03 Reporting Prior Convictions.

- (1) A service provider agency shall require all applicants for pay or volunteer employment to list any prior conviction by any local, state, federal or military court of any felony or any other conviction involving sexual crimes, crimes against a person, fraud involving financial exploitation

and/or substance abuse in a format prescribed by the Commission on Aging and Disability.

- (2) No in-home worker as described by 0030-1-6-.01 convicted of a felony or listed on the abuse registry or sex offender registry may serve participants of programs administered by the Commission on Aging and Disability.

0030-1-6-.04 Checking Employment and Personal References.

- (1) The service provider agency shall check past work and personal references prior to employment of applicants.
  - (a) At a minimum the organization shall communicate directly with the most recent employer and each employer identified by the applicant as having employed the applicant for more than six (6) months in the past five (5) years.
  - (b) The organization shall communicate directly with at least two (2) of the personal references identified by the applicant.
  - (c) Within or prior to ten (10) days of employment, or volunteer affiliation, of such person, employing organizations shall begin the process of verifying background information as required by this subsection.

0030-1-6-.05 Requirements for Employees or Volunteers.

- (1) As a condition of employment with a provider agency, any person who applies to work for the agency as an employee, or any volunteer, whose function would include direct contact with or direct responsibility for persons receiving home and community based services, if so requested by the employing agency, shall:
  - (a) Agree to the release of all investigative records from any source, including federal, state and local governments to the hiring organization for the purpose of verifying the accuracy of criminal violation

- information contained on an application to work for the organization;
- (b) Supply fingerprint samples for the purpose of submitting for a criminal background investigation by the Tennessee Bureau of Investigation. If no disqualifying record is identified, the TBI shall, if so requested, send the fingerprints to the FBI for a national criminal history record check;
  - (c) Release information for a criminal background investigation by a state licensed private investigation company;
  - (d) Provide past work history containing a continuous description of activities over the past five (5) years; and/or
  - (e) Identify at least three (3) individuals as personal references, one (1) of whom shall have known the applicant for at least five (5) years.

0030-1-6-.06 Requirements for Employers.

- (1) Each provider agency must document in its personnel files for each employee or volunteer subject to this part:
  - (a) The applicant's statement of any prior convictions;
  - (b) The results of its check of personal and/or employment references;
  - (c) The results of a county criminal history check for each of the last two counties in which the applicant lived or worked, if such a check is performed;
  - (d) The results of the check of all Tennessee Department of Health databases of licensed health professionals including Certified Nursing Assistants (CNA);

- (e) The results of any other checks which may have been requested by the provider agency, including background checks by the Tennessee Bureau of Investigation or the Federal Bureau of Investigation; and
- (f) Justification/explanation of the decision to employ an individual if the background check identified negative information.

0030-1-6-.07 Criminal History Background Checks.

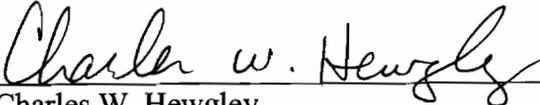
- (1) If the employing agency requests a criminal history background check to be conducted by the Tennessee Bureau of Investigation (TBI) or the Federal Bureau of Investigation (FBI), the process must be initiated by the submission of fingerprint cards to the investigating agency. Any cost incurred by the TBI or the FBI shall be paid by the organization requesting the investigation and information. If a criminal history background check is conducted by the TBI or the FBI, the payment of all costs associated with the investigation shall be made in the amounts established by T.C.A. 38-6-103.

Authority: T.C.A. §§ 4-5-201, 71-2-105(b)(1), and 71-2-111(b).

Legal Contact and/or party who will approve final copy: Charles Hewgley, Acting Executive Director, Andrew Jackson Building, 500 Deaderick Street, Suite 825, Nashville, TN 37243-0860

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Signature of the agency officer or officers directly responsible for proposing and/or drafting these rules:

  
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Charles W. Hewgley  
Acting Executive Director

The roll-call vote by the Commission on Aging on Aging and Disability on these rulemaking hearing rules was as follows:

<u>Commission Member</u>	<u>Aye</u>	<u>No</u>	<u>Abstain</u>
<u>Ginny Acree</u>	<u>X</u>	<u></u>	<u></u>
<u>Robert Brandon</u>	<u>X</u>	<u></u>	<u></u>
<u>*Geneva Burns</u>	<u></u>	<u></u>	<u></u>
<u>Sun-Hwan Chu</u>	<u>X</u>	<u></u>	<u></u>
<u>Diane Cornell</u>	<u>X</u>	<u></u>	<u></u>
<u>Bettie Davis</u>	<u>X</u>	<u></u>	<u></u>
<u>John Fisher</u>	<u>X</u>	<u></u>	<u></u>
<u>*Connie Griffitts</u>	<u></u>	<u></u>	<u></u>
<u>Bonnie Howard</u>	<u>X</u>	<u></u>	<u></u>
<u>*Martin L. Kresge</u>	<u></u>	<u></u>	<u></u>
<u>Leonard Price</u>	<u>X</u>	<u></u>	<u></u>
<u>Ruth M. Robinson</u>	<u>X</u>	<u></u>	<u></u>
<u>Merritt Smith</u>	<u>X</u>	<u></u>	<u></u>
<u>Ruby Stewman</u>	<u>X</u>	<u></u>	<u></u>
<u>Elizabeth Stovall</u>	<u>X</u>	<u></u>	<u></u>
<u>Donald Woodlee</u>	<u>X</u>	<u></u>	<u></u>
<u>*Tam Gordon</u>	<u></u>	<u></u>	<u></u>
<u>Judy Eads</u>	<u>X</u>	<u></u>	<u></u>
<u>Deborah Neill</u>	<u>X</u>	<u></u>	<u></u>
<u>*Roberta Simms</u>	<u></u>	<u></u>	<u></u>
<u>**Dennis Wenner</u>	<u></u>	<u></u>	<u></u>
<u>**Wanda Willis</u>	<u></u>	<u></u>	<u></u>
<u>*Senator Curtis Person</u>	<u>Ex officio</u>	<u></u>	<u></u>

\*Rep. Lois DeBerry Ex officio

\*Members Absent

\*\*Absent When Vote was Taken

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Commission on Aging and Disability on the 10<sup>th</sup> day of February, 2004.

Charles W. Hewgley  
Charles W. Hewgley  
Acting Executive Director

Subscribed and sworn to before me this the 14<sup>th</sup> day of May, 2004

Barry W. Pruitt  
Notary Public

My commission expires on the 30<sup>th</sup> day of May, 2004

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter, 5.

Paul G. Summers  
Paul G. Summers  
Attorney General and Reporter

The rulemaking hearing rules set out herein were properly filed in the Department of State on the 26 day of April, 2004.

Riley C. Darnell  
Riley C. Darnell  
Secretary of State

By: [Signature]

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