

NEW CRIMINAL BACKGROUND CHECK REQUIREMENTS TAKE EFFECT ON AUGUST 15, 2010

Act 876 passed during the 2010 Legislative Session was signed by Governor Jindal on July 2, 2010. This act amends the criminal background check provisions applicable to unlicensed personnel serving in direct care roles (see definitions on page 2). Effective August 15, 2010, adult residential care providers are prohibited from hiring anyone convicted of any of the offenses listed below. Providers must immediately terminate any employees currently in their employment as direct care workers who have been convicted of any of the enumerated offenses, unless the individual has been employed by the provider for 24 months of the preceding 36 months or has received a pardon for the conviction(s). For more information, please refer to the full text of Act 876.

- 14.28.1 Solicitation for murder
- 14.30 First degree murder
- 14.30.1 Second degree murder
- 14.31 Manslaughter
- 14.32.6 First degree feticide
- 14.32.7 Second degree feticide
- 14.32.12 Criminal assistance to suicide
- 14.34 Aggravated battery
- 14.34.1 Second degree battery
- 14.34.7 Aggravated second degree battery
- 14.35.2 Simple battery of the infirm
- 14.37 Aggravated assault
- 14.37.1 Assault by drive-by shooting
- 14.37.4 Aggravated assault with a firearm
- 14.38.1 Mingling harmful substances
- 14.42 Aggravated rape
- 14.42.1 Forcible rape
- 14.43 Simple rape
- 14.43.1 Sexual battery
- 14.43.2 Second degree sexual battery
- 14.43.3 Oral sexual battery
- 14.43.5 Intentional exposure to AIDS virus
- 14.44 Aggravated kidnapping
- 14.44.1 Second degree kidnapping
- 14.46.2 Human trafficking
- 14.51 Aggravated arson
- 14.60 Aggravated burglary
- 14.62.1 Simple burglary of a pharmacy
- 14.64 Armed robbery
- 14.64.1 First degree robbery
- 14.64.4 Second degree robbery
- 14.66 Extortion
- 14.67.21 Theft of assets of an aged person or disabled person
- 14.89 Crime against nature
- 14.89.1 Aggravated crime against nature
- 14.93.3 Cruelty to infirm
- 14.93.4 Exploitation of infirmed
- 14.93.5 Sexual battery of the infirm

Distribution or possession with the intent to distribute controlled dangerous substances as listed in Schedules I through V of the Uniform Controlled Dangerous Substances Act.

Applicants convicted of other offenses may be considered for hire at the discretion of the provider. If hired, no documentation of a "waiver due to mitigating circumstances" will be required.

The Criminal History Checks required under state law in RS40:1300.51 through RS40:1300.56 apply **only** to employees as defined below:

"Nonlicensed person" means any person who provides for compensation nursing care or other health-related services to residents in a nursing facility, intermediate care facility for people with developmental disabilities, adult residential care facility, or home- and community-based service provider and who is not a licensed health provider. "Nonlicensed person" also means any person who provides such services to individuals in their own homes as an employee or contract provider of a home health agency, hospice, or home- and community-based service provider. "Nonlicensed person" also means any person employed as a driver by or who contracts as a driver with a nonemergency, non-ambulance transportation facility or entity.

Direct service worker as defined in R.S. 2179.1: A direct service worker is an unlicensed person who provides personal care or other services and support to persons with disabilities or to the elderly to enhance their well-being and which involves face-to-face direct contact with the person. Functions performed may include, but are not limited to, assistance and training in activities of daily living, personal care services, and job-related supports.

Note: The requirements apply to employees as defined above as well as agency or third-party contractors working under contract to your facility. Providers are not responsible for conducting background checks for private-duty sitters or other third-party contractors employed by your residents and/or their families.