

118 CMR 15.00: DEPARTMENT AND EMPLOYER REGISTRY-RELATED HIRING AND RETENTION PROCEDURES

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15.01: Scope and Purpose

118 CMR 15.00 governs the operations of the registry of care providers against whom the Commission has made a substantiated finding of registrable abuse as prescribed by M.G.L. c. 19C, § 15. 118 CMR 15.00 is applicable to all current and prospective care providers in any program licensed, contracted, or funded by the department; and any individual who provides services on behalf of any program licensed or funded by, or contracting with the department.

15.02: Policy

In order to ensure that care providers in any facility or program licensed or funded by the department or contracting with the department are appropriate for serving in their respective capacities, employers and the department must meet all requirements of 118 CMR 15.02 in performing inquiries to the abuser registry.

15.03: Responsibilities of the Department or the Employer

- (1) The department or the employer shall ensure that all requirements of 118 CMR 15.00 have been met, as applicable.
- (2) In accordance with M.G.L. c. 19C, § 15, prior to employing, contracting with, or utilizing the services of a care provider, the department or the employer shall perform a search of the registry for the care provider's identity. The department or the employer shall require as a condition of employment the satisfactory completion of a registry search. The department or the employer shall offer employment, contract with, or agree to utilize services only after the results of a registry search have found the prospective care provider absent from the abuser registry.
- (3) The department or the employer shall ensure each prospective care provider signs a written consent to a search of the registry prior to performing the search. The department or the employer shall inform the prospective care provider that his or her personal information will be used to make a registry search. Documentation of such consent and notification shall be included in the employer's or the department's employment application materials.
- (4) A search of the registry shall be conducted on care providers who have had a break in employment of one year or more from the department or employer prior to recommencing employment in same manner as a prospective care provider pursuant to 118 CMR 15.03(2) and (3).
- (5) If the care provider's identifying information appears on the registry, or if the care provider declines to consent to a registry search, the department or the employer shall not employ, contract with, or utilize the services of the care provider.
- (6) If the department or the employer receives notification pursuant to 118 CMR 14.05: *Notification Regarding Registrable Abuse Cases and Proceedings* that it is currently employing, contracting with, or utilizing the services of a care provider listed on the registry, the department or employer shall immediately terminate the employment, contract, or utilization of services of said care provider.

15.03: continued

(7) Upon any failure to hire or termination effective pursuant to 118 CMR 15.03, the department or employer shall provide the care provider with the contact information for the Commission.

15.04: Recurrent Registry Screening

(1) The department or employer may, at its own discretion, perform a registry search for any current care provider who the department or employer employs, contracts with, or utilizes the services of.

(2) The department or the employer shall ensure each care provider signs a written consent to a search of the abuser registry prior to performing the search. The department or the employer shall inform the care provider that his or her personal information will be used to make a registry search. Documentation of such consent and notification shall be included in the care provider's personnel file.

(3) If the care provider's identity appears on the registry, or if the care provider declines to consent to a registry search, the department or the employer shall immediately terminate the employment, contract, or utilization of services of the care provider.

(4) Upon any termination effective pursuant to 118 CMR 15.04, the department or employer shall provide the care provider with the contact information for the Commission.

15.05: Compliance Reviews

(1) The Commission may conduct periodic reviews of the department's or an employer's compliance with 118 CMR 15.00. In doing so, the Commission may require the department or employer to submit any information not plainly irrelevant to determine whether the department or employer has complied with 118 CMR 15.00.

(2) If such review or other relevant information obtained by the Commission raises concerns about the department's or employer's compliance, the Commission may require the department or employer to submit any information demonstrating its compliance with 118 CMR 15.00. The Commission may also initiate a compliance investigation pursuant to 118 CMR 5.04: *Registry Compliance Investigations*.

15.06: Disputes regarding the Identity of a Care Provider

(1) The Commission will make every reasonable effort to confirm identity of a care provider whose personal information appears on the registry by including name, date of birth, and any other unique characteristics such as maiden names, aliases, or last four digits of Social Security number. The Commission shall maintain procedures to resolve any disputes regarding the identity of a care provider when contested by the care provider, department, or employer.

(2) The department or employer shall provide to the Commission any information requested by the Commission that will confirm the identity of the care provider.

REGULATORY AUTHORITY

118 CMR 15.00: M.G.L. c. 19C, § 15.